OKLAHOMA
Agriculture, Food and Forestry

OKLAHOMA COMBINED PESTICIDE LAW & RULES UNOFFICIAL COPY

OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

CONSUMER PROTECTION SERVICES DIVISION

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OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, & FORESTRY

CONSUMER PROTECTION SERVICES DIVISION

COMBINED PESTICIDE LAW & RULES
AS AMENDED, JUNE 6, 2000
AS AMENDED, JULY 1, 2002
AS AMENDED, AUGUST 28, 2003
AS AMENDED, AUGUST 26, 2004
AS AMENDED, JULY 1, 2005
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AS AMENDED, MAY 21, 2024
AS AMENDED, AUGUST 11, 2024

TITLE 2, OKLAHOMA STATUTES, SECTIONS 3-81 through 3-86

35:30-17-1 THROUGH 35:30-17-107

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EFFECTIVE MAY 11, 2000
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AMENDED JULY 11, 2026

The Oklahoma Combined Pesticide Rule Changes Effective

July 11, 2026, are as follows:

35:30-17-1.2 (A); 35:30-17-1.3(A); 35:30-17-2(B2); New 35:30-17-2.1; 35:30-17-1.6(C4); 35:30-17-109(A through C); 35:30-17-11(C, F, & K) 35:30-17-13(A); 35:30-17-17.1(1); New 35:30-17-20(E); 35:30-17-22(A); New 35:30-17-24(E3 & F4); 35:30-17-24.1(C); New 35:30-17-25(I); 35:30-17-89.1; 35:30-17-93.

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AMENDATORY 2 O.S. 2011, Section 3-81, is amended to read as follows:

Section 3-81. As used in the Combined Pesticide Law:

1. "Aircraft" means any contrivance used or designed for navigation of or flight in the air over land or water and is designed for or adaptable for use in applying pesticides as sprays, dusts, or other forms;

2. “Active ingredient” means an ingredient, which defoliates plants, prevents fruit drop, inhibits sprouting, or destroys, repels, or mitigates insects, fungi, bacteria, rodents, weeds, or other pests;

3. “Adulterated” means and includes any pesticide if the pesticide strength or purity falls below the professed standard of quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the components of the pesticide, or if any valuable constituent of the components of the pesticide has been wholly or in part abstracted;

4. “Antidote” means the most practical immediate treatment in case of poisoning and includes but is not limited to first aid treatment;

5. "Business location" means any place, site, or facility maintained by a commercial or noncommercial applicator where records, including but not limited to, financial statements, payroll, insurance, and personnel documents are maintained, pesticides are stored, or customers are served. A location serving strictly as a telephone answering service shall not be considered a business location;

6. "Certificate" means a written document issued to an individual by the State Board of Agriculture which indicates that the individual has met the certification standards established by the Combined Pesticide Law for the category of pesticide application shown on the certificate. A certificate does not allow a person to do work as a commercial, noncommercial, service technician, or private applicator unless employed by a licensed entity or has a valid license issued by the Board;

7. "Certification standards" means the standards that a person shall meet to become a certified applicator;

8. "Certified applicator" means a person who has met the certification standards;

9. "Commercial application" means the advertising of services, recommendation for use, the preparation for application, or the physical act of applying a pesticide or employment of a device for hire or compensation;

10. "Commercial applicator" means any person engaging in the commercial application of pesticides or commercial employment of devices. Any farmer while working for a neighbor in agricultural production, not advertising, and not held out to be in the business of applying restricted-use pesticides, shall not be classified by the Board as a commercial applicator;

11. "Contract" means a binding, written agreement between two or more persons spelling out terms and conditions and includes, but is not limited to, warranties or guarantees for pesticide application. For structural pest control applications, the contract shall also include a statement, plat, or diagram showing all locations of visible termites and termite damaged materials which are observed, and how the application was performed;

12. "Defoliant" means any pesticide intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;

13. "Desiccant" means any pesticide intended to artificially accelerate the drying of plant tissues;

14. "Device" means any instrument subject to the United States Environmental Protection Agency regulation intended for trapping, destroying, repelling, or mitigating insects or rodents, or mitigating fungi, bacteria, or weeds, or other pests designated by the Board, but not including equipment used for the application of pesticides when sold separately;

15. "Direct supervision" means that the certified applicator is responsible for assuring that persons working, subject to direct supervision, are qualified to handle pesticides and are instructed in the application of the specific pesticides used in each particular application conducted which is subject to their supervision. Certified applicators shall be accessible to the noncertified applicator at all times during the application of the pesticide by telephone, radio, or any device approved by the Board;

16. "Fungi" means all nonchlorophyll-bearing thallophytes, including but not limited to, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on humans or animals;

17. "Fungicide" means any pesticide intended for preventing, destroying, repelling, or mitigating any fungi or bacteria;

18. "Ground equipment" means any machine, equipment, or device other than aircraft designed for use, adaptable for use, or used on land or water in applying pesticides as sprays, dusts, aerosols, fogs, or other forms;

19. "Herbicide" means any pesticide intended for preventing, destroying, repelling, desiccating, or mitigating any weed, or for defoliating plants, preventing fruitdrop, and inhibiting sprouting;

20. “Inert ingredient” means an ingredient, which is not an active ingredient;

21. “Ingredient statement” means a statement containing the name and percentage of each active ingredient, and the total percentage of all inert ingredients in the pesticide. If the pesticide contains arsenic in any form, the percentages of total and water-soluble arsenic shall each be calculated as elemental arsenic;

22. "Insect" means any of the numerous small invertebrate six-legged animals generally having the body more or less obviously segmented, many belonging to the class Insecta, including, but not limited to, beetles, bugs, and flies as well as allied classes of arthropods including spiders, mites, ticks, centipedes, and wood lice;

23. "Insecticide" means any pesticide intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment;

24. "Label" means the written, printed, or graphic matter attached to the pesticide, device, or container including the outside container or wrapper of the retail package of the pesticide or device;

25. "Labeling" means all labels and other written, printed, or graphic material:

    a. upon the pesticide, device, or any of its containers or wrappers,

    b. accompanying the pesticide or device at any time, or

    c. to which reference is made on the label or in literature accompanying the pesticide or device except when accurate, nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, United States Department of Agriculture, United States Department of the Interior, the United States Public Health Service, State Experiment Stations, State Agricultural Colleges, or other federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of pesticides;

26. "License" means a written document issued to a person by the Board which shows that the person has met all established licensing requirements established by the Combined Pesticide Law and who is authorized to apply

pesticides as a commercial, noncommercial, or private applicator pursuant to the license issued;

27. "Minimum standards" means the measures prescribed by the Board to bring appropriate pesticide services to the public;

28. "Misbranded" means and includes:

    a. any pesticide or device if its labeling bears any statement, design, or graphic representation relative to its ingredients which is false or misleading, or

    b. any pesticide or device:

        (1) if it is an imitation of or is offered for sale under the name of another pesticide or device,

        (2) if its labeling bears any reference to registration under the Combined Pesticide Law,

        (3) if the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public,

        (4) if the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to humans and vertebrate animals,

        (5) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there is one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase,

        (6) if any word, statement, or other information required by or under the authority of the Combined Pesticide Law to appear on the labeling is not prominently placed with conspicuousness, as compared with other words, statements, designees, or graphic matter in the labeling, and in terms likely to be read and understood by an individual under customary conditions of purchase and use, or

        (7) if in the case of an insecticide, fungicide, or herbicide, when used as directed or in accordance with commonly

recognized practice, it shall be injurious to humans, vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying the pesticide;

29. "Noncommercial applicator" means any person, other than a commercial or private applicator, who uses or supervises the use of a restricted-use pesticide. The noncommercial applicator shall be under the supervision of an owner or manager of property and who is certified in the same manner as a commercial applicator. A noncommercial applicator is subject to all requirements except those pertaining to financial responsibility. Noncommercial applicator includes a government employee applying restricted-use pesticides in the discharge of official duties;

30. "Nonrestricted-use pesticide" means any pesticide, other than a pesticide classified as restricted-use pesticide;

31. "Nonrestricted-use pesticide dealer" means any person engaged in the sale, storage, or distribution of any pesticide other than those pesticides classified by the United States Environmental Protection Agency or the Board as restricted use pesticides;

32. "Permit" means a written document issued by the Board which shows that a person has met all of the permitting requirements established by the Combined Pesticide Law and is authorized to sell pesticides as a restricted-use or nonrestricted-use pesticide dealer in accordance with the type of permit issued;

33. "Pest" means any organism harmful to man including, but not limited to, insects, mites, nematodes, weeds, and pathogenic organisms. Pathogenic organisms include viruses, mycoplasma, bacteria, rickettsia, and fungi which the Board declares to be a pest;

34. "Pesticide" means a substance or mixture of substances intended for defoliating or desiccating plants, preventing fruitdrop, inhibiting sprouting, or for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses, which the Board declares to be a pest, except viruses on or in humans or animals;

35. "Private applicator" means any person who uses or supervises the use of any restricted pesticide for purposes of producing any agricultural commodity on property owned or rented by the person, or employer, or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities;

36. “Registrant” means the person registering any pesticide or device pursuant to the provisions of the Combined Pesticide Law;

37. "Restricted-use pesticide" means any pesticide classified for restricted use by the United States Environmental Protection Agency, either by regulation or through the registration process, or by the Board pursuant to the Oklahoma Agricultural Code;

38. "Restricted-use pesticide dealer" means any person engaged in the sale, storage, or distribution of restricted-use pesticides;

39. "Rodenticide" means any pesticide intended for preventing, destroying, repelling, or mitigating rodents or any other animal which the Board declares a pest;

40. "Service technician" means a person employed by a licensed commercial or noncommercial applicator who applies the pesticide or employs a device, but is not a certified applicator. A service technician or certified applicator shall be present at each application performed;

41. “Temporary certified applicator” means a person who has successfully completed the written examinations required for certification but has not successfully completed the practical examination;

42. "Use" means transportation, storage, mixing, application, safe handling, waste and container disposal, and other specific instructions contained on the label and labeling;

43. "Weed" means any plant or plant part which grows where not wanted; and

44. "Wood infestation report" means a document issued with a property transaction which shall, at a minimum, contain statements or certifications as to the presence or absence of termites and any other wood destroying insects, and the presence or absence of damage. The wood infestation report does not include a bid or proposal for treatment.

AMENDATORY 2 O.S. 2011, Section 3-82, is amended to read as follows:

Section 3-82.

A. LICENSE REQUIRED –

1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State Board of Agriculture for the category of pesticide application in which the person is engaged, unless the person is applying to their his or her own property.

2. A license may be issued by the Board in any category of pesticide application if the applicant qualifies and the applicant is limited to the category of pesticide application named on the license. The Board may establish categories of pesticide application as necessary. Licenses shall be issued upon application to the Board on a form prescribed by the Board. The application shall contain information regarding the applicant's qualifications, proposed operations, and other information as specified by the Board.

3. a. An aerial license shall not be issued or be valid unless the applicant files with the Board a copy of a valid document issued by the Federal Aviation Administration showing that the person is qualified to operate or supervise the operation of an aircraft, and a copy of any other applicable certification as required by the Federal Aviation Administration for pesticide application. Applicants for an aerial license and pilots working under a license may be subject to a complete and thorough background examination.

   b. The Board shall promulgate rules regarding aerial applicators and applications consistent with federal law and shall solicit the assistance of the Federal Aviation Agency in the enforcement of this subsection.

4. Each business location shall require a separate license and separate certified applicator except that a certified applicator for a noncommercial business location may also serve as the certified applicator for one commercial business location.

5. A license shall not be issued for the category of pesticide application of any applicant or representative who has a temporary certification.

B. CERTIFICATION REQUIRED –

1. A license shall be issued only after satisfactory completion of the certification standards by the person who shall be the certified applicator under the license. Temporary certified applicators do not qualify as the certified applicator for a license, nor may they act as a certified applicator. The Board shall deny the application for certification, recertification, issuance, or renewal of a certificate or license for a failure to show proper qualification under the rules or for violations of any provisions of this section. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked by the Board or until recertification is required for the category, and may be renewed after successful completion of recertification requirements. The Board may require certified applicators to be recertified once in a five-year period.

2. A certified service technician identification shall be issued upon application and completion of certification standards determined by the Board. Temporary certified applicators may qualify as a certified service technician. No person shall act, do business as, or advertise as a service technician unless the person has met all the qualifications and standards as required by the Board. The service technicians' identification shall be issued in the name of the licensed entity. The licensee shall ensure that the service technician identification is returned to the Board upon termination of the employee. A service technician identification shall be valid for a period of five (5) years unless suspended, canceled, or revoked by the Board, until recertification is required by the Board, or until the service technician leaves the employ of the licensed entity. The Oklahoma Department of Agriculture, Food, and Forestry may issue a service technician identification upon completion of the following:

   a. A determination is made by the Department that the applicant has successfully completed the written examination,

   b. The licensed entity provides a completed service technician identification application form at the time of testing, and

   c. All appropriate fees are paid at the time of testing.

3. Each license, except for private applicators, shall expire on dates established by the Department in administrative rules, and may be renewed for the ensuing calendar year, without penalty or reexamination, if a properly completed application is filed with the Board on a date established by the Department. If the application is not received by the due date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received within thirty (30) days following the due date, an additional one-hundred-dollar penalty shall be paid prior to license renewal.

All private applicator licenses are in effect for five (5) years and may be renewed by application after completion of a continuing education program or written exam approved by the Board.

C. The following fees shall be paid to the Board:

1. A fee of One Hundred Dollars ($100.00) for each category of pesticide application shall be paid to the Board for the issuance or renewal of a commercial applicator business license, not more than Five Hundred Dollars ($500.00) total category fees shall be charged annually to any business location of an applicator;

2. A fee of Fifty Dollars ($50.00) shall be paid to the Board for each written examination conducted by the Board;

3. A fee of Fifty Dollars ($50.00) shall be paid to the Board for each practical examination conducted by the Board;

4. A fee of Twenty Dollars ($20.00) shall be paid to the Board for the issuance or renewal of a private applicator's license;

5. A fee of Fifty Dollars ($50.00) shall be paid to the Board for the issuance or renewal of a noncommercial business license. Not more than Two Hundred Fifty Dollars ($250.00) total category fees shall be charged annually to any noncommercial business location of an applicator;

6. A fee of Twenty Dollars ($20.00) shall be paid to the Board for the issuance or renewal of service technician identification;

7. A fee of Ten Dollars ($10.00) shall be paid to the Board for the issuance of duplicate licenses or certificates or transfer of a service technician identification;

8. A fee of Fifty Dollars ($50.00) shall be paid to the Board for each recertification procedure; and

9. A fee of One Hundred Dollars ($100.00) shall be paid to the Board for each reciprocal certification procedure for applicator certifications.

D. All fees shall be deposited in the State Department of Agriculture Revolving Fund.

E. Fees shall be paid to the Board prior to the processing of any application.

F. Failure to pay any fee identified with licenses, permits, pesticide registrations, or certification shall require the Board to deny the application.

G. INSURANCE REQUIRED –

1. The Board shall not issue a commercial applicator's license until the applicant has furnished evidence of an insurance policy or certificate by an insurer or broker authorized to do business in this state insuring the commercial applicator and any agents against liability resulting from the operations of the commercial applicator. The insurance shall not be applied to damage or injury to agricultural crops, plants, or land being worked upon by the commercial applicator.

2. The amount of liability shall not be less than that set by the Board for each property damage arising out of actual use of any pesticide. The liability shall be maintained at not less than that sum at all times during the licensing period. The Board shall be notified fifteen (15) days prior to any reduction in liability.

3. If the furnished liability becomes unsatisfactory, the applicant shall immediately execute new liability upon notice from the Board. If new liability is not immediately obtained, the Board shall, upon notice, cancel the license. It shall be unlawful for the person to engage in the business of applying pesticides until the liability is brought into compliance and the license reinstated.

H. DAMAGES –

1. Prior to filing an action against an applicator for damages to growing crops or plants, any person alleging damages to growing crops or plants shall:

a. within ninety (90) calendar days of the date that the alleged damages occurred or prior to the time that twenty-five percent (25%) of the allegedly damaged crops or plants are harvested, whichever occurs first, file a written complaint statement with the Department regarding the alleged damages, and

b. between the date of filing of the written complaint pursuant to subparagraph a of this paragraph and the date harvesting or destruction of the allegedly damaged crops or plants occurs, allow the applicator and the representatives of the applicator reasonable access to the property to inspect and take samples of the allegedly damaged crops or plants during reasonable hours. The representatives of the applicator may include, but not be limited to, crop consultants, bondsmen, and insurers. Nothing in this subparagraph shall limit in any way the harvesting or destruction of the allegedly damaged crops or plants in the ordinary course of business and practice.

2. Any person failing to comply with paragraph 1 of this subsection shall be barred from filing an action for damages against the applicator.

I. PERMIT REQUIRED –

1. It shall be unlawful for any person to sell, offer for sale, or distribute within this state any restricted use pesticide without first obtaining a restricted use pesticide dealer's permit issued by the Board.

2. A permit may be issued by the Board in any category of pesticide sales if the applicant qualifies under the provisions of this section and the

applicant is limited to the category of pesticide sales named on the permit. The Board may establish categories of pesticide sales as necessary.

3. The permit shall be issued only upon application on a form prescribed by the Board and the application shall contain information regarding the applicant's proposed operation and other information as specified by the Board.

4. Each business location engaged in the sale or distribution of restricted use pesticides shall require a separate permit.

5. The annual permit fee for a restricted use pesticide dealer permit shall be Fifty Dollars ($50.00) for each location.

6. The Board may require a certified applicator to be present at any location where designated restricted use pesticide sales occur.

J. PESTICIDE REGISTRATION REQUIRED –

1. Every pesticide or device distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce shall be registered with the Board.

2. The registrant shall file with the Board a statement including, but not limited to:

   a. the name and address of the registrant and the name and address of the person whose name shall appear on the label, if other than the registrant,

   b. the name of the pesticide or device,

   c. a complete copy of the labeling accompanying the pesticide or device and a statement of all claims to be made for it, and directions for use, and

   d. if requested by the Board, a full description of the tests made and the results upon which the claims are based. In renewing a registration, a statement shall be required only with respect to information which is different from the information furnished when the pesticide or device was last registered.

3. Each registrant shall pay to the Board an annual registration fee of Two Hundred Ten Dollars ($210.00) for each pesticide or device label registered. These fees shall be used by the Oklahoma Department of Agriculture, Food, and Forestry for purposes of administering pesticide

management programs. A portion of these fees, in the amount of Three Hundred Thousand Dollars ($300,000.00) annually, shall be dedicated for conducting programs for unwanted pesticide disposal. This amount shall be deposited into the State Department of Agricultural Unwanted Pesticide Disposal Fund and shall be dedicated for this use only.

4. The Board may require the submission of the complete formula of any pesticide. Trade secrets and formulations submitted by the registrant may be kept confidential. If it appears to the Board that the composition of the pesticide is adequate to warrant the proposed claims and if the pesticide, its labeling, and other material required to be submitted comply with the requirements of this section, then the pesticide shall be registered.

5. If it does not appear to the Board that the pesticide or device is adequate to warrant the proposed claims for it or if the pesticide or device, its labeling, and other material required to be submitted do not comply with the provisions of this section, it shall notify the applicant of the deficiencies in the pesticide or device, labeling, or other material required and afford the applicant an opportunity to make the necessary corrections. If the applicant claims, in writing, that the corrections are not necessary and requests in writing a hearing regarding the registration of the pesticide or device, the Board shall provide an opportunity for a hearing before refusing to issue the registration. In order to protect the public, the Board may at any time cancel the registration of a product or device. In no event, shall registration of a pesticide or device be considered as a defense or excuse for the commission of any offense prohibited under this section.

6. The Board may require that pesticides be distinctively colored or discolored to protect the public health.

7. Registration shall not be required in the case of a pesticide shipped from one plant or place within this state to another plant or place within this state that is operated by the same person.

K. CATEGORIES OF LICENSES AND PERMITS –

The Board may establish any category of license for pesticide application or any category of permit for pesticide sales.

L. PERMIT AND PESTICIDE REGISTRATION EXPIRATION –

1. All permits for pesticide sales shall be issued for a period of one (1) year and the permits shall be renewed annually and shall expire on a date determined by the Board. A permit may be renewed for the ensuing year, without penalty, if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of

expiration. If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

2. All pesticide registrations shall be issued for a period of one (1) year. The registration shall be renewed annually and shall expire on a date to be determined by the Board. Pesticide registrations may be renewed for the ensuing year, without penalty, if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the pesticide registration.

M. PESTICIDE PRODUCING ESTABLISHMENTS

1. Definitions as used in this subsection:

   a. “establishment” means any site where a pesticide product, active ingredient or device is produced within the state,

   b. “produce” means to manufacture, prepare, propagate, compound or process any pesticide or to package, repackage, label, relabel or otherwise change the container of any pesticide or device, and

   c. “producer” means any person who produces, manufactures, prepares, compounds, propagates or processes any active ingredient, pesticide, or device as used in producing a pesticide.

2. It shall be unlawful for any person to produce within this state any pesticide, active ingredient or device without first obtaining a pesticide producer establishment permit issued by the Board.

3. The permit shall be issued only upon application on a form prescribed by the Board. The application shall contain information regarding the proposed operation of the applicant and other information as specified by the Board. If at any time there is a change of the information provided in or on the application for a pesticide producer establishment permit, the producer must notify the Board in writing within thirty (30) calendar days of the change.

4. The producer shall file a statement with the Board including but not limited to:

   a. the name and address of the company,

b. the name and address of the establishment as well as the physical location, if different than the mailing address,

c. the name of any pesticide, active ingredient, or device, and

d. the name and address and other pertinent contact information for the responsible party.

5. All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually. All permits shall expire on June 30 each year and may be renewed without penalty if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

6. Each pesticide producer establishment location engaged in the production of pesticides, active ingredients or devices shall require a separate permit.

7. The annual permit fee for a pesticide producer establishment shall be One Hundred Dollars ($100.00) for each location.

8. If requested by the Board, a complete copy of all labeling, Material Safety Data Sheets, technical information associated with the pesticide, active ingredient, or device and a statement of all claims to be made as well as directions and use must be submitted to the Board.

9. In order to determine compliance with state and federal laws, the Board may request a full disclosure of inventory records, sales and distribution records, and any other information deemed necessary by the Board.

10. Every producer shall keep accurate records pertaining to pesticide, active ingredient, or device production and distribution as required by the Board. The records of the producer shall be kept intact at the principal producing location in this state for at least two (2) years after the date of production and distribution and copies shall be furnished to any authorized agent of the Board, immediately upon request in person, at any time during the regular business hours of the producer. Copies of records shall be furnished to any authorized agent of the Board within seven (7) working days of a written request, in summary form, by mail, fax, email, website, or any other electronic medial customarily used.

N. COMPLAINT RESOLUTION – Upon receipt of a written complaint, the Board shall notify the person filing the complaint in writing of its receipt and status

within two (2) working days. The person whom the complaint is filed against shall also be notified within two (2) working days. Notification that a complaint has been filed may also be given to the landowner or operator when appropriate. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, or legal remedies to the extent possible by the Department. The complainant shall be notified in writing within seven (7) working days after resolution of the complaint.

NEW LAW 2 O.S. 2005, Section 3-82.1 reads as follows:

Section 3-82.1

There is hereby created in the State Treasury a fund for the State Board of Agriculture to be designated the State Department of Agriculture "Unwanted Pesticide Disposal Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Board of Agriculture to implement and maintain the Unwanted Pesticide Disposal Program. On July 1, 2005, the Oklahoma Department of Agriculture, Food, and Forestry shall transfer all money in the State Department of Agriculture Revolving Fund which has been designated by law for conducting programs for unwanted pesticide disposal to the Unwanted Pesticide Disposal Fund.

AMENDATORY 2 O.S. 2000, Section 3-83, is amended to read as follows:

Section 3-83.

A. Every commercial and noncommercial applicator shall keep accurate records pertaining to pesticide activities, applications, and wood infestation reports, as required by the State Board of Agriculture. The records of the applicator shall be kept intact at the principal business location in this state for at least two (2) years after their date of expiration and copies shall be furnished to any authorized agent of the Board, immediately upon request in person, at any time during the regular business hours of the applicator. Copies of records shall be furnished to any authorized agent of the Board within seven (7) working days of a written request, in summary form, by mail, fax, e-mail, web site, or any other electronic media customarily used.

B. Every restricted use pesticide dealer shall keep accurate records pertaining to restricted use pesticide purchases and sales, as required by the Board. The records shall be kept intact at the principal business location in this state for at least two (2) years after their date of expiration. Copies shall be furnished to any authorized agent of the Board at any time during the regular business hours of the dealer, immediately upon request in person, or within

seven (7) working days of a written request, in summary form, by mail, fax, e-mail, web site, or any other electronic media customarily used.

C. It shall be the duty of the Board to audit the maintenance of records as necessary to carry out the provisions of the Oklahoma Agriculture Code.

AMENDATORY 2 O.S. 2011, Section 3-84, is amended to read as follows:

Section 3-84.

A. The Board shall have the authority to declare any form of plant or animal life or virus which is injurious to plants, humans, domestic animals, articles, or substances as a pest. The Board shall have the authority to classify pesticide uses as being general, restricted, or both, to determine standards of coloring or discoloring for pesticides, and to subject pesticides to the requirements of this section.

B. The Board shall promulgate appropriate rules for carrying out the provisions of this section.

C. The Board shall, to the extent practical, create uniformity between the requirements of Oklahoma and those prescribed by the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

AMENDATORY 2 O.S. 2011, Section 3-85, is amended to read as follows:

Section 3-85.

A.

1. The State Board of Agriculture shall administer and enforce the provisions of the Combined Pesticide Law.

2. The State Board of Agriculture shall promulgate rules and standards for the application, use or sale of pesticides, rules for pesticide registration, standards for contracts and recordkeeping, work performance, prescribe standards for the licensing of application of pesticides, issuing pesticide dealer permits, certification, recertification procedures, and storing and disposal of pesticide and pesticide containers.

3. The Board shall, to the extent practical, create uniformity between the requirements of Oklahoma and those prescribed by the Federal Insecticide, Fungicide, and Rodenticide Act.

4. The Board is empowered to cooperate with and negotiate reciprocal agreements with the federal government or any state, or any department or agency of either for the purpose of fulfilling the intent of this section and securing uniformity of rules.

5. The Board may inspect any work, records, or contracts of each applicator, manufacturer, or dealer to determine whether or not the work is performed according to the provisions of this section or rules promulgated thereunder.

6. For the purpose of securing uniformity of rules, no city, town, county, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or statute regarding pesticide sale or use that is more stringent than the rules of the Board, including, but not limited to, registration, notification, posting, advertising and marketing, distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information, or product composition.

7. The Board may take samples of pesticide materials in order to determine their concentration or residue level. If the Board finds that such samples are not within established standards, the Board's finding shall be considered prima facie evidence that a violation has occurred.

    a. The concentration of an active ingredient for a pesticide concentrate, shall not exceed or be less than the concentration of active ingredient stated on the pesticide label by more or less than the tolerance for active ingredient concentration specified by this paragraph. Concentrations above or below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:

        (1) pesticides with a stated concentration of active ingredient less than fifty-one-hundredths of one percent (0.51%) shall not exceed one hundred fifty percent (150%) or fail to meet eight percent (80%) of the stated active ingredient on the pesticide label when analyzed,

        (2) pesticides with a stated concentration of active ingredient not less than fifty-one-hundredths of one percent (0.51%) and not more than one percent (1.0%) shall not exceed one hundred forty percent (140%) or fail to meet eighty five (85%) of the stated active ingredient on the pesticide label when analyzed,

(3) pesticides with a stated concentration of active ingredient not less than one and one hundredths of one percent (1.01%) and not more than five percent (5%) shall not exceed one hundred forty percent (140%) or fail to meet ninety percent (90%) of the stated active ingredient on the pesticide label when analyzed,

(4) pesticides with a stated concentration of active ingredient not less than five and one hundredths of one percent (5.01%) and not more than ten percent (10.00%) shall not exceed one hundred thirty percent (130%) or fail to meet ninety two percent (92%) of the stated active ingredient on the pesticide label when analyzed,

(5) pesticides with a stated concentration of active ingredient not less than ten and one hundredths of one percent (10.01%) and not more than fifty percent (50.00%) shall not exceed one hundred twenty five (125%) or fail to meet ninety four (94%) of the stated active ingredient on the pesticide label when analyzed, and

(6) Pesticides with a stated concentration of active ingredient not less than fifty and one hundredths of one percent (50.01%) and more than one hundred percent (100.00%) shall not exceed one hundred fifteen percent (115%) or fail to meet ninety six percent (96%) of the stated active ingredient on the pesticide label when analyzed;

b. The concentration of an active ingredient for a pesticide concentrate in fertilizer and pesticide mixtures, pressed blocks and nonuniform baits shall not be less than the concentration of active ingredient stated on the pesticide label for the tolerance for active ingredient concentration specified by this paragraph. Concentrations below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:

(1) when the stated concentration of active ingredient on the pesticide label is less than one and twenty-six-hundredths of one percent (1.26%), the minimum amount of active ingredient shall be at least sixty-seven percent (67%) of the stated concentration on the pesticide label when analyzed,

(2) when the stated concentration of active ingredient on the pesticide label is not less than one and twenty-six-hundredths of one percent (1.26%) or more than five percent (5%), the minimum amount of active ingredient

shall be at least eighty percent (80%) of the stated concentration on the pesticide label when analyzed, and

(3) when the stated concentration of active ingredient on the pesticide label is more than five percent (5%), the minimum amount of active ingredient shall be at least eighty five percent (85%) of the stated concentration on the pesticide label when analyzed.

c. The concentration of an active ingredient for a pesticide concentrate in rotenone, pyrethrin and other natural product formulations shall not be less than the concentration of active ingredient stated on the pesticide label for the tolerance for active ingredient concentration specified by this paragraph. Concentrations below the established tolerance shall be prima facie evidence that a pesticide is adulterated or misbranded:

(1) when the stated concentration of active ingredient on the pesticide label is less than 0.51% the minimum amount of active ingredient shall be at least 70.0% of the state concentration on the pesticide label when analyzed,

(2) when the stated concentration of active ingredient on the pesticide label is not less than 0.51% or more than 1.25% the minimum amount of active ingredient shall be at least 80.0% of the stated concentration on the pesticide label when analyzed, and

(3) when the stated concentration of active ingredient on the pesticide label is more than 1.25% the minimum amount of active ingredient shall be at least 85.0% of the stated concentration on the pesticide label when analyzed;

d. The concentration of an active ingredient for a pesticide tank mix, as stated by the applicator and allowed by the pesticide label, shall not exceed or be less than the concentration of active ingredient stated by more or less than the tolerance for active ingredient concentration specified by this paragraph. Concentrations above or below the established tolerance shall be prima facie evidence of a use unsuitable, unsafe or inconsistent with its label or labeling. No pesticide shall be formulated into a tank mix at a concentration in excess of or below that permitted by the pesticide label without written approval from an authorized agent of the Oklahoma Department of Agriculture, Food, and Forestry:

(1) when the stated concentration or that allowed by the pesticide label is less than fifty-one hundredths of one percent (0.51%), the minimum amount of active ingredient in the tank mix shall be at least sixty percent (60%) and not more than one hundred fifty percent (150%) of the stated concentration or that allowed by the pesticide label when analyzed,

(2) when the stated concentration or that allowed by the pesticide label is not less than fifty one-hundredths of one percent (0.51%) and not more than one percent (1%), the minimum amount of active ingredient in the tank mix shall be at least seventy percent (70%) and not more than one hundred forty percent (140%) of the stated concentration or that allowed by the pesticide label when analyzed,

(3) when the stated concentration or that allowed by the pesticide label is not less than one and one-hundredths of one percent (1.01%) and not more than five percent (5%), the minimum amount of active ingredient in the tank mix shall be at least eighty percent (80%) and not more than one hundred forty percent (140%) of the stated concentration or that allowed by the pesticide label when analyzed,

(4) when the stated concentration or that allowed by the pesticide label is not less than five and one-hundredths of one percent (5.01%) and not more than ten percent (10%), the minimum amount of active ingredient in the tank mix shall be at least eighty-four percent (84%) and not more than one hundred thirty percent (130%) of the stated concentration or that allowed by the pesticide label when analyzed,

(5) when the stated concentration or that allowed by the pesticide label is not less than ten and one-hundredths of one percent (10.01%) and not more than fifty percent (50%), the minimum amount of active ingredient in the tank mix shall be at least eighty-eight percent (88%) and not more than one hundred twenty-five percent (125%) of the stated concentration or that allowed by the pesticide label when analyzed, and

(6) when the stated concentration or that allowed by the pesticide label is not less than fifty and one-hundredths of one percent (50.01%) and not more than one hundred

percent (100%), the minimum amount of active ingredient in the tank mix shall be at least ninety-two percent (92%) and not more than one hundred fifteen percent (115%) of the stated concentration or that allowed by the pesticide label when analyzed.

e. The State Board of Agriculture may promulgate, by rule, maximum and minimum concentrations or thresholds for the other concentrate of pesticides in products, or soil residues.

B. If registered by the United States Environmental Protection Agency, registered in Oklahoma, and used in accordance with all requirements as prescribed by the product label, any borate-based pesticide for termite control may be applied as a stand-alone termite treatment.

C. Authorized agents of the Board shall have the authority to issue notices of violation, citations, compliance orders, stop sales, or stop work orders to those persons committing violations of the laws or rules relating to pesticides or pesticide application in this state.

D.

1. Examinations of pesticides or devices shall be made under the direction of the Board for the purpose of determining if there has been compliance with the requirements of this section.

2. If it appears from examination that a pesticide or device fails to comply with the provisions of this section, and the Board contemplates instituting administrative proceedings against any person, the Board shall cause notice and an opportunity for a hearing given to the person pursuant to the Administrative Procedures Act;

E.

1. Any pesticide or device distributed, sold, or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce may be seized by the Oklahoma Department of Agriculture, Food, and Forestry in any county of the state where it may be found and if:

a. in the case of a pesticide, it is adulterated or misbranded, it has not been registered, it fails to bear on its label the required information, or it is a white powder pesticide and it is not colored as required, or

b. in the case of a device, it is misbranded.

2. If the pesticide or device is condemned it shall, after entry of decree or judgment of a district court, be disposed of by destruction or sale as the court may direct. If the article is sold, the proceeds, less court costs, shall be paid to the State Department of Agriculture Revolving Fund;

3. The court shall not order the sale or disposal of a condemned pesticide or device in a manner which would be a violation of this section or rules promulgated thereto;

4. The person or entity directed to dispose or sell the condemned pesticide or device shall do so in a manner that complies with the order of the district court and this section and rules promulgated thereto;

5. The court may direct that the pesticide or article be delivered to the owner for relabeling or reprocessing;

6. If there is a person who is successful in intervening as claimant of the pesticide or device, when a decree of judgment of condemnation is entered against the pesticide or device, court costs, fees, storage, and other proper expenses shall be awarded against such claimant.

F. The Board may, by publication in a manner as it may prescribe, give notice of all judgments entered in action, instituted under its authority.

G. All authority vested in the Board shall with like force and effect be executed by its officers, employees, and authorized agents.

H. EXCEPTION – The fines provided for violations may not apply to:

1. Any carrier while lawfully engaged in transporting a pesticide within this state, if the carrier permits the Board upon request to copy all records showing the transaction in and movement of the pesticide and devices involved;

2. Public officials of this state and of the Federal Government engaged in the performance of official duties;

3. The manufacturer or shipper of a pesticide or device for experimental use only, by or under the supervision of an agency of this state or of the Federal Government authorized by law to conduct research in the field of pesticides or devices, or by others if the pesticide or the device is not sold or if the container is plainly and conspicuously marked “for experimental use only-not to be sold”, together with the manufacturer’s name and

address, if a written permit has been obtained from the Board. Pesticides or devices may be sold for experimental purposes subject to restrictions set forth in the permit; and

4. Pesticides and devices intended solely for export to a foreign country, and prepared or packed according to the specifications or directions of the purchaser. If not exported, all of the provisions of this section shall apply.

I. 1. The Department of Environmental Quality shall have environmental jurisdiction over:

a. Commercial manufacturers of fertilizers, grain, and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill, and other agricultural products;

b. Slaughterhouses, but not including feedlots at these facilities; and

c. Aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundment and land application of wastes and sludge, and other pollution originating at these facilities; and

2. Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination Systems (NPDES) regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

J. This section shall not prevent any political subdivision from complying with any applicable federal law or regulation. A political subdivision which takes any action prohibited by this title in order to comply with federal requirements shall notify the Board of its compliance plan prior to taking any action. The Board may assist the political subdivision in complying with federal requirements necessary to carry out the policy of this section. The Board may permit a political subdivision to impose standards more stringent than required by the Board if necessary for the political subdivision to comply with federal requirements.

AMENDATORY 2 O.S. 2012, Section 3-86, is amended to read as follows:

Section 3-86.

A. It shall be unlawful for any person, whether or not they hold a commercial or noncommercial license, to violate any part of this subsection or rules promulgated by the State Board of Agriculture. Any license, certificate, or identification issued may be suspended, canceled, revoked, or refused issue, or reissue by the Board after notice and an opportunity to be heard has been given to the holder of the license or certificate. The suspension, cancellation, revocation, or refusal to issue or reissue any license, certificate, or identification may be made if the Board finds:

1. A person has made misrepresentations for the purpose of defrauding, or has not satisfactorily performed, without proper cause, any contract into which the person entered;

2. A person has negligently used methods or pesticides that are ineffective or improper for the purpose for which they have been employed;

3. A person has operated in a negligent manner, thereby causing a pesticide to drift off-target;

4. A person has used a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained from the Board;

5. Failure or refusal to furnish the Board, upon request, true information regarding methods, pesticides, and safety measures used, work performed, or other information required by the Board, or for making any false statement or representation in the person's application for issuance or renewal of a permit;

6. Any violation of state law or rules or standards prescribed by the Board;

7. The issuance of an inaccurate, misleading, or fraudulent wood infestation report;

8. Failure or refusal to keep and maintain complete and accurate records as specified in this subarticle;

9. Advertising or offering to perform in a category of pesticide application for which no license is held or under a name for which no license is held;

10. Failure or refusal to pay by the specified date any fees, fines, or penalties authorized under this subarticle;

11. Failure to explain in writing in a contract signed by the property owner the ways that a pesticide application fails to comply with any minimum requirements or standards authorized by this article;

12. Failure to perform work according to minimum standards authorized by this subarticle except as agreed by all parties in writing in the contract;

13. Falsely stating that a person is employed by or represents another person;

14. Falsely stating that a person or methods are recommended by any branch of government or that any specific work shall be inspected by any branch of government;

15. Any person to act, operate, do business, or advertise as an applicator unless the person has obtained a valid license issued by the Board for the category in which the person is engaged;

16. Any persons to be employed or represent themselves as certified applicators or service technicians unless they have met the certification standards prescribed by the Board and obtained valid certificates or identifications issued by the Board for the categories for which the persons are to be employed or supervised;

17. Any person to act or operate as a private applicator unless the person has obtained a valid private applicator license issued by the Board;

18. Any person convicted in any court of a violation of this subarticle, pesticide laws of any other state, or the Federal Insecticide Fungicide and Rodenticide Act;

19. Failure to correct substandard work within twenty (20) calendar days of written notification unless an extension has been granted in writing by the Board;

20. Failure to comply with the Worker Protection Standard as defined in the Code of Federal Regulations 40 CFR 170;

21. Failure to comply with the provisions of a citation, stop work order, or stop sale order issued by the Board; or

22. Any other proper cause.

B. Any person, holder or nonholder of a valid license violating any of the provisions of this subarticle shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars ($100.00) and not more than Ten Thousand Dollars ($10,000.00), imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

C. It shall be unlawful for any person, whether or not a person holds a permit as a manufacturer, registrant, or distributor, to distribute, sell, or offer for sale within this state, deliver for transportation or transport in intrastate or interstate commerce, or to violate any part of this subarticle or rules promulgated by the Board. Any pesticide registration, permit, certificate, or identification issued may be suspended, canceled, revoked, or refused reissue by the Board after a notice and opportunity to be heard has been given to the holder of the registration, permit, certificate, or identification. Notice shall be given to the holder of the registration, permit, certificate, or identification by registered or certified mail at least ten (10) days prior to the date of hearing. The suspension, cancellation, revocation, or refusal to reissue any registration, permit, certificate or identification may be made if the Board finds that:

1. A pesticide or device which has not been registered pursuant to the provisions of this subarticle, or any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition differs from its composition as represented in connection with its registration. At the discretion of the Board, a change in the labeling or formula may be made within a registration period without requiring reregistration of the product;

2. A pesticide unless it is in the registrant's or the manufacturer's unbroken original container, does not have a clear and readable label affixed to the original container and to the outside container or wrapper of the retail package, the following information:

   a. The name and address of the manufacturer, registrant, or person for whom manufactured,

   b. The name, brand, or trademark under which the article is sold, and

   c. The net weights or measures of the content subject to reasonable variations as the Board shall permit;

3. In addition to any other requirement any pesticide containing a substance in quantities highly toxic to humans, that does not bear a label containing:

a. The skull and crossbones,

b. The word “DANGER” prominently in red, on a background of distinctly contrasting color, and

c. A statement of an antidote for the pesticide;

4. An adulterated or misbranded pesticide or device;

5. That any person intends to or has distributed, sold, stored, or used any pesticide or device in a manner inconsistent with its labeling;

6. That any person has sold or offered for sale any pesticide or device which has been canceled, suspended, or placed under stop sale except when the Board directs the sale of unused quantities of pesticides whose registrations have been canceled or suspended;

7. A pesticide dealer has sold, offered for sale, or distributed within this state any pesticide without first obtaining a valid pesticide dealer's permit in the appropriate category issued by the Board;

8. A pesticide dealer has failed or refused to keep accurate and complete records, as required by the Board, for a period of at least two (2) years at each business location;

9. A pesticide dealer has failed or refused to provide true and complete information to the Board, upon request, regarding pesticide sales, or other information required by the Board;

10. A person has made any false statement or representation in the person’s application for issuance or renewal of a permit;

11. A person has failed or refused to pay by the specified date any fees, fines, or penalties authorized under the Oklahoma Agricultural Code;

12. A person has failed to comply with the provisions of a citation, stop work order, or stop sale order issued by the Board;

13. A person has detached, altered, defaced, or destroyed, in whole or in part, any label or labeling provided for in this subarticle or in rules promulgated by the Board, and added any substance to or taken any substance from a pesticide in a manner that may defeat any of the purposes of this subarticle;

14. A person has used any information concerning formulas for products acquired by authority of this subarticle for personal advantage or

revealed such information to another, other than to the Board or proper officials or employees of the state, to the courts of this state in response to a subpoena, physicians, or in emergencies to pharmacists and other qualified person, for use in the preparation of antidotes;

15. A person has violated the state law or rules promulgated by the Board pursuant thereto;

16. Any person has been convicted in any court of a violation of this act, pesticide laws of any other state, or Federal Insecticide Fungicide and Rodenticide Act; or

17. A person determined by the Board to have violated any provision of this subarticle or rules promulgated by the Board.

D. If after notice and an opportunity for hearing in accordance with the Administrative Procedures Act, the Board finds any person to be in violation of any of the provisions of this subarticle or rules promulgated by the Board, the Board has the authority to assess an administrative penalty of not less than One Hundred Dollars ($100.00) and not more than Ten Thousand Dollars ($10,000.00) for each violation. It shall also be unlawful and a misdemeanor for any person, whether or not a commercial or noncommercial license holder, to use a pesticide in a manner inconsistent with its labeling unless prior written approval has been obtained by the Board.

E. Except as provided for by law, any person, holder or non-holder of a valid license, registration, permit, certificate, or other identification issued by the Board violating any of the provisions of this subarticle shall be guilty of a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars ($100.00) and not more than Ten Thousand Dollars ($10,000.00) or by imprisonment in the county jail for not less than thirty (30) days and not more than one (1) year, or both.

TITLE 35. STATE DEPARTMENT OF AGRICULTURE
CHAPTER 30. CONSUMER PROTECTION

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 250.3(5) AND 308(E) WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:

SUBCHAPTER 17. COMBINED PESTICIDE

PART 1. COMMERCIAL, NON-COMMERCIAL, AND PRIVATE CATEGORIES OF PESTICIDE APPLICATION

35:30-17-1. License and Certification Categories

License and certification categories of pesticide application shall comply with the category specific competency standards of 40 CFR 171.103(d) and 40 CFR 171.105(a) as referenced in sections 6 and 7 of the state certification and training plan and are as follows:

(1) 1a: Agricultural Plant Category - Includes the application of pesticides to agricultural crops, agricultural grassland, and noncrop agricultural land. This category does not include the production of trees for any purpose.

(2) 1b: Agricultural Animal Category - Includes the application of pesticides to animals, including those in feedlots, sales barns, egg production facilities and the animal holding facilities. This excludes Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.

(3) 2: Forest Pest Control Category - Includes the application of pesticides in forest nurseries, forest seed production areas, trees grown for the production of forestry products, and other forest areas.

(4) 3a: Ornamental and Turf Outdoor Pest Control Category - Includes the application of pesticides within residential or business areas to lawns, ornamental trees and shrubs, including park areas, golf courses, and other recreational areas, , except as defined under licensed categories 2, 3b-c, 7, and 8.

(5) 3b: Interiorscape Category – Includes the application of pesticides to interior plantings inside structures (i.e. hospitals, buildings, shopping malls, etc.) excluding residential structures with the exception of common use areas of multiple residential structures (i.e. foyers, atriums, indoor swimming pools, management offices, meeting rooms, etc.) except as defined under licensed categories 3c, 7, and 8.

(6) 3c: Nursery/Greenhouse Category – Includes the application of pesticides in nursery and greenhouse facilities and to fields except as defined under licensed categories 2 (Forest Pest Control).

(7) 4: Seed Treatment Category - Includes the application of pesticides to seed for any purpose.

(8) 5: Aquatic Pest Control Category - Includes the application of pesticides to standing or running water in man-made or natural impoundments, streams, etc. This excludes public health activities (e.g. mosquito control) and water in totally closed systems.

(9) 6: Right-of-Way Category - Includes the application of pesticides for public road maintenance, power line maintenance, railroad right-of-way, storage tank areas, and other similar areas.

(10) 7a: General Pest Control Category - Includes the application of pesticides within and immediately adjacent to a structure, except for fumigation activities, control of termites and other wood destroying organisms in or on a structure, and control of birds or predatory animals. "Immediately adjacent to a structure" means not further than three (3) feet from the structure. Applications to restaurants are permitted in this category.

(11) 7b: Structural Pest Control Category - The application of pesticides for the purpose of controlling termites and other wood destroying organisms in or on a structure, including wood borers and fungus.

(12) 7c: Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.

(13) 8: Public Health Pest Control Category - The application of pesticides by local, state, federal or other governmental employees or commercial pesticide applicators in public health programs, to include municipal and other areawide mosquito control programs.

(14) 9: Regulatory Pest Control Category - Includes the application of pesticides by state, federal or other government employees for the control of designated regulated pests.

(15) 10: Demonstration and Research Pest Control Category - Includes persons engaged in the application of pesticides for scientific research or for the purpose of demonstrating pesticide products or methods of application.

(16) 11a: Bird and Vertebrate Animal Pests Control Category - The application of pesticides for the control of birds or vertebrate animals pests and subject to the rules of the Oklahoma Department of Wildlife Conservation and the Wildlife Services Division of the Board.

(17) 11b: Predatory Animal Control Category - The application of pesticides for the control of predatory animals and subject to the rules of the Oklahoma Department of Wildlife Conservation, and the Wildlife Services Division of the Board.

(18) 12a: Pressure Facility Timber Treating Category - Includes the treatment of wood in a pressure treating facility by the impregnation or application of chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(19) 12b: Ground Line Utility Pole Timber Treating Category - Includes the ground line treatment of utility poles with chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(20) 12c: Construction Industry Timber Treating Category - Includes the application of chemical solutions to wood members of structure which will be covered by paint, varnish, or similar covering for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(21) 12d: Home Owner Timber Treating Category - Includes the application of chemical solutions to wood constructions around the home, including decks, for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(22) 13: Antimicrobial Category - Includes applications of an antimicrobial pesticide intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.

(23) 14: Specialty Category - Includes any area of pesticide application not defined in Category 1 thru 13 when the pesticide to be used is classified as restricted.

(24) 15: Aerial Category - The use of a pesticide applied by aircraft to any crop or site. In addition to certification in this category, certification in one or more of the appropriate use categories is required.

(25) 16: Private Applicator Category- Any person who uses or supervises the use of any restricted pesticide for purposes of producing any agricultural commodity on property owned or rented by the person, or employer, or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities.

(A) Private Applicator Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.

(B) Private Applicator Aerial Category - The use of a pesticide applied by aircraft to any crop or site. In addition to certification in this category, certification in one or more of the appropriate use categories is required.

35:30-17-1.1. Applications and forms

All applications, examinations, certifications, licenses, charters, and other forms and blanks necessary to carry out the provisions in Chapter 30 shall be prescribed by the Board.

35:30-17-1.2 Schedule of combined pesticide program fees

(a) The fees for issuance or renewal of pesticide business licenses shall be as follows:

(1) Commercial license - One Hundred Dollars ($100.00) per category, Five Hundred Dollars ($500.00) maximum for each location.

(2) Non-commercial license - Fifty Dollars ($50.00) per category, Two Hundred Fifty Dollars ($250.00) maximum for each location.

(3) Duplicate issue - Ten Dollars ($10.00) each.

(4) Private applicator - Twenty Dollars ($20.00) each.

(5) For licenses that expire on September 30th of each year, failure to remit a commercial or non-commercial business license renewal fee by the 1st day of October shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of November shall also result in an additional One Hundred Dollar ($100) penalty which shall be paid prior to license renewal.

(6) For licenses that expire on December 31st of each year, failure to remit a commercial or non-commercial business license renewal fee by the 1st day of January shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of February shall also result in an additional One Hundred Dollar ($100) penalty which shall be paid prior to license renewal.

(b) The issuance and annual registration fees for each pesticide and device label shall be as follows:

(1) Pesticide - Two Hundred Ten Dollars ($210.00) each.

(2) Device - Two Hundred Ten Dollars ($210.00) each.

(3) Failure to remit the registration fees for pesticides and devices by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.

(c) The annual permit fee for a restricted use pesticide dealer shall be Fifty Dollars ($50.00) for each location. Failure to remit the permit fee by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.

(d) The fee for each written examination or practical conducted for the combined pesticide program shall be as follows:

(1) Written examination - Fifty Dollars ($50.00).

(2) Practical conducted - Fifty Dollars ($50.00).

(e) Applicator certification fees shall be as follows:

(1) Re-certification procedure - Fifty Dollars ($50.00) for each.

(2) Reciprocal certification procedure - One Hundred Dollars ($100.00) for each.

(f) Identification card fees shall be as follows:

(1) Service technician - Twenty Dollars ($20.00) each.

(2) Certified applicator - No charge.

(3) Duplicate issue or transfers - Ten Dollars ($10.00) each.

(g) The annual permit fee for pesticide producing facilities, including facilities that produce pesticidal devices, shall be One Hundred Dollars ($100.00) for each location.

(1) All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually.

(2) All permits shall expire on June 30 each year and may be renewed without penalty upon filing of a properly completed application not later than the fifteenth day of the month first following the date of expiration.

(3) If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

(h) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

35:30-17-1.3. Commercial and Non-Commercial Pesticide Business license renewal

(a) Each license for commercial and non-commercial pesticide application for companies with a number or with the letters A, B, C, D, E, F, G, H, I, J, K, and L shall expire on the 30th day of September following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination if a properly completed application is filed with the Board not later than the 1st day of October of each year. If the application is not received by October 1, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received by November 1, an additional penalty of One Hundred Dollars ($100.00) shall be paid by the applicant prior to license renewal.

(b) Each license for commercial and non-commercial pesticide application for companies with names beginning with the letters M, N, O, P, Q, R, S, T, U, V, W, X, Y, and Z shall expire on the 31st day of December following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination if a properly completed application is filed with the Board not later than the 1st day of January of each year. If the application is not received by January 1, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received by February 1, an additional penalty of One Hundred Dollars ($100.00) shall be paid by the applicant prior to license renewal.

35:30-17-2. Consultant license

(a) Any person who makes a pesticide or device recommendation for hire or compensation, but does not purchase or apply the pesticide or device, or any person evaluating a pest situation or prescribing a mitigation plan of the identified pest using a pesticide or device shall be commercially licensed as a consultant in the category in which the recommendation is made.

(b) Any person recommending a pesticide or device that is incidental to their primary duty or duties and does not receive compensation for the recommendation shall be exempt from the requirement to obtain a consultant license. This exemption shall include, but not be limited to:

(1) a sales clerk employed by a pesticide dealer that routinely recommends pesticides and devices but does not receive compensation for the recommendation; or

(2) an architect that recommends a building be pretreated for termites using a licensed business, certified applicator, and a properly registered pesticide but does not receive compensation for the recommendation.

35:30-17-2.1. Sales apprenticeship

(a) This apprenticeship may only be obtained after satisfactory completion of coursework prescribed by the Board and is valid until December 31st of each year.

(b) This apprenticeship allows a person to only inform potential customers about the company's pest control services.

(c) The apprentice must identify themselves to the property owner and they cannot inspect a property for pests or make any pesticide use recommendations.

(d) Prior to entering into a contract, all service terms, including the cancelation policy, must be clearly conveyed to the customer and a copy of the contract must be provided to the customer at the time the contract is signed.

(e) A service technician may act as a sales apprentice. (f) An apprenticeship certification and card will cost One Hundred Dollar ($100) and shall be paid prior to beginning work.

35:30-17-3. Categories of pesticide dealer permits

A restricted use pesticide dealer permit includes the sale, offer for sale, or distribution within this state of any restricted use pesticide.

35:30-17-3.1. Restricted use pesticide dealer permit required

(a) It shall be unlawful for any person to sell, offer for sale, or distribute within this state any restricted use pesticide without first obtaining a pesticide dealer's permit issued by the Board.

(b) The permit shall be issued only upon application on a form prescribed by the Board and the application shall contain information regarding the applicant's proposed operation and other information as specified by the Board.

35:30-17-3.2. Restricted use pesticide dealer permit

(a) Each business location engaged in the sale or distribution of restricted use pesticides shall require a separate permit.

(b) The annual permit fee for a restricted use pesticide dealer permit shall be Fifty Dollars ($50.00) for each location.

(c) The Board may require a certified applicator to be present at any location where the designated restricted use pesticide sales occur.

(d) Every restricted use pesticide dealer shall keep accurate records pertaining to restricted use pesticide purchases and sales, as required by the Board. The records shall be kept intact at the principal business location in this state for at least two (2) years after their date of expiration. Copies shall be furnished to any authorized agent of the Board at any time during the regular business hours of the dealer, immediately upon request in person, or within seven (7) working days of a written request, in summary form, by mail, fax, email, web site, or any other electronic media customarily used.

(e) It shall be the duty of the Board to audit the maintenance of records as necessary to carry out the provisions of the Oklahoma Agricultural Code.

PART 2. PESTICIDE RULE ADVISORY COMMITTEE

35:30-17-3.4. Pesticide rule advisory committee

(a) The State Board of Agriculture may appoint a pesticide rule advisory committee to serve as advisors to the Department regarding review and recommendations for revisions to pesticide rules.

(b) The committee shall consist of:

(1) One member shall represent agribusiness retailers;

(2) One member shall represent vegetation managers;
(3) One member shall represent aerial pesticide applicators;

(4) One member shall represent commercial pest control applicators;

(5) One member shall represent restricted use pesticide dealers;

(6) One member shall represent manufacturers of pesticides;

(7) One member shall represent private pesticide applicators;

(8) Two members shall represent agricultural organizations;

(9) One member shall represent the general public, with an emphasis on consumer protection;

(10) One member shall represent Oklahoma State University or Oklahoma State University Cooperative Extension Service; and

(11) One member shall represent the turfgrass industry.

(c) Of the initial members, four (4) shall serve one (1) year terms, four (4) shall serve two (2) year terms, and four (4) shall serve three (3) year terms. Thereafter, all members shall serve for three (3) year terms; provided, all members shall serve at the pleasure of the Board.

(d) The advisory committee shall meet at least annually to review and recommend proposed rules. The committee shall present written recommendations to the Department no later than October 1 of each year.

(e) The advisory committee may create subcommittees to address specific areas of concern. The subcommittees may meet more frequently to discuss the specific areas of concern.

PART 3. CERTIFICATION, CONDUCT OF EXAMINATIONS, AND RECERTIFICATION

35:30-17-4. Examination of applicants for certification

(a) The written examination for certification of commercial and noncommercial applicators shall include two (2) phases. Phase I shall consist of general knowledge common to all licensed categories and shall be successfully completed before examination is attempted in any license category. Phase II shall consist of specific knowledge for each licensed category. An applicant may test in as many different licensed categories as desired. An applicant shall successfully complete a Phase II examination within twelve (12) months of passing the Phase I examination. Failure to meet the twelve (12) month deadline shall require an applicant to re-take the Phase I examination.

(b) The written examination for certification of commercial and noncommercial applicators shall comply with the competency standards provided in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 40 CFR Section 171.103 and shall be computer based and conducted at a site determined by the board.

(c) A practical examination shall also be required for commercial and noncommercial applicators in the following categories: Structural Pest, General Pest, Fumigation, and Food Processing. An individual shall successfully complete the practical examination within twelve (12) months of passing the Phase II written examination in the above categories. Failure to meet the twelve 12) month deadline shall require an individual to re-take the Phase II written examination.

(d) The practical examination shall be conducted at the training facility at Oklahoma State University and includes the successful completion of an approved training program which demonstrates a thorough knowledge in the handling of pesticides, labels and labeling requirements, storage, transportation, mixing, application, disposal, insect biology and safety. The facility at Oklahoma State University meets the following conditions for treatment in the Structural Pest Category: crawl space, voids, and a concrete floor, garage floor, or patio slab.

(e) A service technician shall be certified upon successful completion of a written service technicians examination. An individual shall not act, do business, or advertise as a service technician unless a service technician identification has been issued by the Board. A service technicians' identification shall be issued in the name of the licensed entity. The licensee shall return the service technician identification to the Board upon termination of the employee. A service technician identification shall be valid for five (5) years unless suspended, canceled, revoked, or the service technician is no longer employed by the licensed entity. Recertification may be required at any time by the Board. The Department may issue a service technician identification upon completion of the following:

(1) A determination is made by the Department that the applicant has successfully completed the written examination;

(2) The licensed entity provides a completed service technician identification application form at the time of testing; and

(3) All appropriate fees are paid at the time of testing.

(f) The written examination for service technician shall be computer based and conducted at a site determined by the board.

(g) Private applicators shall complete a certification form and an education program or written examination as required by the Board. Private applicators in the Fumigation category shall be required to complete the certification form and a closed book written exam and successfully complete the Fumigation practical at the training facility at Oklahoma State University within twelve (12) months of passing the Fumigation written exam.

(h) The written examination for private applicators shall comply with the competency standards provided in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 40 CFR Section 171.105 and shall be computer based and conducted at a site determined by the board.

(i) An individual shall not act, do business, or advertise as a certified applicator unless all qualifications and standards required by the Board have been met. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked. Recertification may be required by the Board, but shall not exceed one recertification in a five (5) year period.

(j) Successful completion of any written examination shall be a score of 70% or greater.

(k) The Department may require that an individual seeking a certified applicator or service technician certification demonstrate the capability to read and write with sufficient proficiency to comprehend the content and instructions of a pesticide label.

35:30-17-5. Conduct of examinations

(a) Written examinations may be conducted at locations within Oklahoma designated by the Board for groups of five (5) or more applicators, provided that no less than ten (10) examinations shall be administered.

(b) Other examination locations, dates, and times shall be at the discretion of the Board upon request. A written request shall be made a minimum of thirty (30) calendar days in advance of the desired examination date.

35:30-17-5.1. Examination applicant requirements

(a) Examinations shall not be administered until the applicant provides the following documents to the testing proctor:

(1) A completed and signed Record of Testing on a form provided by the Department;

(2) A valid photo identification (ID); and

(3) Payment of the appropriate testing fee or proof of payment issued by the Department.

(b) Applicants shall re-sign the official roster upon completion of the examination and return testing materials and any scratch paper to the testing proctor. Applicants that fail to re-sign the official roster and return testing materials or scratch paper shall receive a failing grade and may be subject to further administrative action.

35:30-17-5.2. Prohibited at the examination site

(a) Cheating is prohibited. Cheating shall include, but is not limited to, talking to other applicants during the examination, looking at other applicants answer sheet, or using reference materials that are not provided by the testing proctor.

(b) Applicants shall not physically possess or have access to the following items while testing:

(1) Cell phones or other electronic devices;

(2) Study materials of any kind; or

(3) Books, notebooks, or paper of any kind unless provided by the testing proctor.

(c) Applicants shall not engage in conversations, disruptions, or conduct that might disturb other applicants.

(d) Applicants shall not copy, record, or reproduce exam booklets or examination questions.

(e) Any person found in violation of this section shall receive a failing grade and may be subject to further administrative action.

35:30-17-6. Recertification

(a) Each certified applicator shall seek recertification every five (5) years.

(b) Within twelve (12) months of expiration a certified applicator shall either pass a Phase II exam examination or earn a specified number of Continuing Education Units (CEU) approved by the Department to successfully complete recertification. If a certified applicant elects to re-examine and does not pass a Phase II examination within twelve (12) months of expiration, the applicant shall be required to re-take the Phase I and Phase II examinations and a practical examination, when applicable. If a certified applicant elects to earn CEU for recertification, approximately one (1) hour of education shall be the equivalent of one (1) CEU. The CEU requirements for each category are as follows:

(1) 1a - Agricultural Plant:
  (A) Total in five years - 20 CEU
  (B) Maximum in any one year - 10 CEU

(2) 1b - Agricultural Animal:
  (A) Total in five years - 5 CEU
  (B) Maximum in any one year - 2 CEU

(3) 2 - Forest:
  (A) Total in five years - 10 CEU
  (B) Maximum in any one year - 5 CEU

(4) 3a - Ornamental and Turf Outdoor:
  (A) Total in five years - 20 CEU
  (B) Maximum in any one year - 10 CEU

(5) 3b - Interiorscape:
  (A) Total in five years - 10 CEU
  (B) Maximum in any one year - 5 CEU

(6) 3c - Nursery/Greenhouse:
  (A) Total in five years - 15 CEU
  (B) Maximum in any one year - 7 CEU

(7) 4 - Seed Treatment:
  (A) Total in five years - 5 CEU
  (B) Maximum in any one year 2 CEU

(8) 5 - Aquatic:
(A) Total in five years - 5 CEU
(B) Maximum in any one year 2 CEU

(9) 6 - Right-of-Way:
(A) Total in five years - 15 CEU
(B) Maximum in any one year 7 CEU

(10) 7a - General Pest:
(A) Total in five years - 20 CEU
(B) Maximum in one year - 10 CEU

(11) 7b - Structural Pest:
(A) Total in five years - 20 CEU
(B) Maximum in one year - 10 CEU

(12) 7c - Fumigation:
(A) Total in five years - 10 CEU
(B) Maximum in one year - 5 CEU

(13) 7d - Food Processing:
(A) Total in five years - 15 CEU
(B) Maximum in one year - 7 CEU

(14) 8 - Public Health:
(A) Total in five years - 15 CEU
(B) Maximum in one year - 7 CEU

(15) 9 - Regulatory:
(A) Total in five years - 10 CEU
(B) Maximum in one year - 5 CEU

(16) 10 - Demonstration & Research in app. Category:
(A) Total in five years - 20 CEU
(B) Maximum in one year - 10 CEU

(17) 11a - Bird & Vertebrate Animal Pest:
(A) Total in five years - 5 CEU
(B) Maximum in one year - 2 CEU

(18) 11b - Predatory Animal
(A) Total in five years - 5 CEU

(B) Maximum in one year - 2 CEU

(19)12 - Timber Treating (all subcategories):
(A) Total in five years - 5 CEU
(B) Maximum in one year - 2 CEU

(20)13 - Antimicrobial:
(A) Total in five years - 5 CEU
(B) Maximum in any one year - 2 CEU

(21)14 - Specialty Category:
(A) Total in five years - 5 CEU
(B) Maximum in any one year - 2 CEU

(22)15 - Aerial:
(A) Total in five years – 5 CEU
(B) Maximum in any one year – 2 CEU

(23)16 - Private Applicator:
(A) Total in five years - 20 CEU
(B) Maximum in any one year - 10 CEU

(c) No more than one-half (1/2) of the total credit units shall be accepted for any one (1) calendar year.

(1) Credit units shall be obtained in at least three (3) of the five (5) years, in any combination, so that the total number obtained equals or exceeds the five (5) year requirement.

(2) The continuing education units may be prorated for any applicator whose recertification period is less than five (5) years.

(3) The Department may allow a CEU to be credited to more than one (1) category.

(4) The course number associated with each continuing education course shall count only once towards the total CEUs per certification cycle.

(d) The CEU shall be structured to provide the following information over the five (5) year period:

(1) Laws and rules;

(2) Pesticides (formulations, registration, labeling and label comprehension, handling and storage, toxicity, and hazards);

(3) Application equipment and calibration;

(4) Pests and IPM;

(5) Identification of hazardous areas;

(6) Drift prevention;

(7) Endangered species;

(8) Groundwater; and

(9) Worker protection.

(e) Any person may request approval of an education program as CEU.

(1) The request for approval shall include the following:

(A) A list of proposed topics including a description of the content and their relative value for meeting the standards of continuing certification;

(B) A list of speakers and their qualifications; and

(C) Method used to verify attendance and evaluate the progress of participants.

(2) The Department and the Oklahoma State University Pesticide Coordinator shall review the request for approval to determine if it meets the criteria of CEU.

(A) If the education program is approved for CEU, the person requesting approval shall be notified of the number of assigned CEU.

(B) Awarded CEUs shall not be valid for more than five (5) years after the date of approval. After five (5) years, courses shall be resubmitted for review and approval.

(C) The person requesting approval may appeal the number of assigned CEU to a three-person review committee with a representative from each of the following:

(i) Oklahoma State University;
(ii) the Department; and
(iii) certified applicators.

(3) Individuals seeking course approval for CEU's shall electronically submit course information and other required information for CEU approval through a website.

PART 4. COMPLAINTS AND RESOLUTIONS OF COMPLAINTS

35:30-17-7. Receipt and resolution of complaint against licensee

Upon receipt of a written complaint, the Board shall notify the person filing the complaint in writing of its receipt and status within two (2) working days. The person whom the complaint is filed against shall be notified within two (2) working days. Notification that a complaint has been filed may also be given to the landowner or operator when appropriate. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, or legal remedies to the extent possible by the Department. The complainant shall be notified in writing within seven (7) working days after resolution of the complaint.

PART 5. PREREQUISITES FOR LICENSING

35:30-17-10. Application insurance requirements

(a) The Board shall not issue a business license until the applicant or agent has furnished evidence of financial responsibility. A liability insurance policy or certification shall protect persons who may suffer legal damages as a result of the pesticide operations of the applicant. The policy need not apply to damages or injury to agricultural crops, plants, or land being worked on by the applicant.

(b) With the exception of the aerial pesticide category, pesticide businesses obtaining liability insurance pursuant to this section shall file a certificate of insurance with the Department, verifying insurance in an amount of not less than $50,000 bodily injury, $100,000 bodily injury per occurrence, and $50,000 property damage. The provisions of this section with regard to “per occurrence” are specifically intended to be interpreted per occurrence, rather than per claimant. The insurance obtained pursuant to this section shall insure against liability for damage, loss, or injury, including chemical drift or trespass, suffered by any person or persons, resulting from the application of any pesticide. A current certificate of insurance shall be filed with each initial and subsequent renewal registration.

(c) Aerial pesticide businesses obtaining liability insurance pursuant to this section shall file a certificate of insurance with the Department, verifying insurance in an amount of not less than $100,000 bodily injury, $300,000 bodily injury per occurrence, and $100,000 property damage. The provisions of this section with regard to “per occurrence” are specifically intended to be interpreted per occurrence, rather than per claimant. The insurance obtained pursuant to this section shall insure against liability for damage, loss, or injury, including chemical drift or trespass, suffered by any person or persons, resulting from the application of any pesticide. A current certificate of insurance must be filed with each initial and subsequent renewal registration.

(d) Liability insurance shall be maintained at all times during the licensed period. The Board shall be notified by the insurer fifteen (15) days prior to any applicant’s

request for a reduction or cancellation of the liability insurance. The total and the aggregate of the insurer for all claims shall be limited to the face amount of the liability insurance policy. The Board may accept a liability insurance policy with a deductible clause in an amount not exceeding $5,000 for all applicators. If the applicant has not satisfied the requirement of the deductible amount in any prior legal claim, the deductible clause shall not be accepted by the Board unless the applicant has furnished the Board with additional liability insurance which satisfies the amount of the deductible.

(e) The Department may approve a liability self-insurance policy with a deductible clause that exceeds the requirements of subsection (d) of this section if the applicant has:

(1) Been continuously engaged in business for not less than three (3) years immediately preceding the application;
(2) At least one hundred (100) employees (all states included); and
(3) At least One Million Dollars ($1,000,000.00) in net assets.

(f) An applicant may request a waiver of some or all of the requirements of subsection (e) subject to a security deposit or other insurance requirements as determined by the Department.

(g) If the furnished liability insurance becomes unsatisfactory, the applicant shall upon notice immediately provide a new liability insurance. Upon failure to do so, the Board shall cancel the license and give notice. It shall be unlawful to engage in the business of applying pesticides until the insurance is brought into compliance and the license is reinstated by the Board.

(h) Application of a pesticide specifically excluded on the insurance policy shall be considered working without a license.

35:30-17-11. Application for license required

(a) Prior to issuance of any license, an applicant shall properly complete a license application.

(b) An application for license shall be considered properly filed when the Board has received the following:

(1) An application completed and signed prior to January 1 of the license year.

(2) Cash, check, or money order in the proper amount.

(3) Certificate of insurance.

(c) A commercial pesticide business operating under more than one business identity or name from a single business location shall be licensed separately for each business identity or name, including but not limited to any trade name, “d/b/a”, website, alias, or other designation used in commerce for the purpose of offering services regulated by this subchapter.

(d) The application shall also list the natural person or legal entity lawfully permitted to do business in the State of Oklahoma using or operating under the licensed name.

(e) The Department shall issue a stop sale order and initiate license revocation proceedings against any person or legal entity that is not lawfully permitted to do business in the State of Oklahoma or is not permitted to do business in the State of Oklahoma under the business identity or name provided in the application.

(f) A commercial pesticide business with a single business identity or name but operating from more than one business location shall be licensed at each separate business location.

(g) If the name selected by an applicant for a license to act, operate, or do business or advertise as a commercial or noncommercial applicator in the State of Oklahoma is the same or so near the same as that of another licensee already doing business in the state as to cause confusion in the minds of the people or is likely to deceive the public, the Department may require the applicant to apply for a license under a different name that is distinguishable from the names of existing licensees. Any determination made pursuant to this rule shall be at the sole discretion of the Department.

(h) Each business location licensed shall have a minimum of one certified applicator at that location who is certified in each licensed category for which application is made.

(i) A franchised business shall have a separate license and a separate certified applicator at each business location.

(j) Established time periods for the issuance, renewal or denial of all certifications and licenses required by law shall be as follows:

(1) The Department shall review a new application within fifteen (15) working days from the date received.

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(2) Any renewal application for certification or license received prior to the renewal date established by the Board shall be considered valid until a final determination is made.

(3) Following review, if it is determined that the requirements have been met, the appropriate certification or license shall be issued within ten (10) working days of the determination date.

(4) Following review, if it is determined that the requirements have not been met, the appropriate certification or license shall be denied. Notification of the denial shall be made in writing to applicant within ten

(10) working days of the determination. The notification shall state the reason(s) for the denial and identify steps necessary to meet the requirements for issuance.

(k) All applicators working for a company shall be listed on the company's license prior to making any applications.

PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations

(a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) (2026 Revision), Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.

(b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

35:30-17-13.1. Establishments requiring permitting

(a) Any establishment where a pesticidal product is produced shall have a duty to submit the permit application, renewal applications, and a copy of the EPA pesticidal product report to the Department in a timely manner.

(b) Permits for pesticide producing establishments expire on June 30 of each year. A renewal application shall be received no later than July 15 of each year. Any renewal application received after July 15 shall be subject to the renewal fee and a penalty of twice the amount of the renewal fee.

(c) The Department shall assign a permit number to the establishment.

(d) Failure to submit a pesticidal product report, application, renewal application, or permit fee may result in civil and criminal penalties and termination of the establishment's permit.

(e) It shall be the duty of the permitee to provide written notification to the Department of any changes or additions on the EPA pesticidal product report or any information on the permit application or renewal form within thirty (30) calendar days of the change or addition.

PART 7. IDENTIFICATION OF EQUIPMENT USED BY COMMERCIAL APPLICATORS

35:30-17-15. Vehicle identification

All vehicles, including nurse tanks and self-propelled ground applicators, used by a commercial applicator during the conduct of business shall be identified by displaying the name and license number of the licensee. The display shall be on both sides of the vehicle in letters not less than two (2) inches in height.

PART 8. PESTICIDE REGISTRATIONS AND PERMITS

35:30-17-17. Pesticide registrations

(a) Pesticide registrations shall be issued for a period of one (1) year and shall expire annually as follows:

(1) Companies whose names begins with the letters A, B, C, D, E, & F shall expire on March 31st of each year (group 1).

(2) Companies whose names begins with the letters G, H, I, J, K, L, & M shall expire on June 30th of each year (group 2).

(3) Companies whose names begins with the letters N, O, P, Q, R, & S shall expire on September 30th of each year (group 3).

(4) Companies whose names begins with the letters T, U, V, W, X, Y, & Z shall expire on December 31st of each year (group 4).

(b) Pesticide registration applications shall be received no later than the fifteenth day of the month following the date of expiration.

(c) Unless provided otherwise, registrants shall be responsible for the registration of pesticides and devices and may be sanctioned by the Department if unregistered pesticides or devices are distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce by registrants, distributors or dealers.

(d) Pesticides and devices classified under sections 24(c) or 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 et seq. shall be registered with the Department and shall comply with all registration requirements established by the Department.

(e) Companies producing, packaging, labeling, and shipping pheromone lures, traps, and monitoring systems from Oklahoma shall be exempt from pesticide registration.

(f) The Department may waive the annual pesticide registration fee when granting experimental use permits. Before issuing an experimental use permit, the

Department may require the registrant to provide a complete copy of the use plan, label, contact information for the person responsible in Oklahoma and any other information required for pesticide or device registration.

(g) Registrants shall submit a laboratory standard and an analytical method for each new pesticide product registered for which either/or both have not previously been submitted or has changed since the previous submission. Submissions shall be made to: Supervisor, ODAFF Pesticide Laboratory, 2800, N. Lincoln Blvd. Oklahoma City, Oklahoma.

35:30-17-17.1 Registration and renewal options

Registrants shall renew a pesticide or device registration using one of the following methods:

(1) Registrants may electronically renew the registration for a pesticide or device. Revised labels, material safety data sheets and uniform product codes may also be submitted during the electronic renewal process.

(2) Registrants may renew the pesticide or device registration by paying the annual registration fee and submitting a registration application directly to the Department on a form approved by the Department. Revised labels, material safety data sheets and uniform product codes may also be submitted during the electronic renewal process. The registrant shall include an electronic copy of the existing or revised pesticide or device label in pdf format.

35:30-17-17.2 Cancellation or discontinuance of a pesticide or device registration

A pesticide or device shall be considered unregistered upon the cancellation or discontinuance of the pesticide or device registration. The registration of a pesticide or device that has been distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce shall be cancelled or discontinued using one of the following methods.

(1) The registrant, distributors and dealers of the cancelled or discontinued pesticide or device shall recall the pesticide or device, remove the pesticide or device from the channels of trade, and submit a letter to the Department stating that the pesticide or device has been recalled and that the pesticide or device is not available in channels of trade. The Department may sanction the registrant, distributor or dealer if the unregistered pesticide or device is distributed, sold or offered for sale within this state after the cancellation or discontinuance of the pesticide or device registration.

(2) The registrant may submit a letter to the Department indicating the registrant's intent to cancel or discontinue the registration for the pesticide or device. The registrant shall conditionally maintain the product registration for two (2) years while the pesticide or device clears the channels of trade. During the two year period of conditional registration, the registrant, distributors, and dealers shall place no new cancelled or discontinued pesticides or devices into the channels of

trade. The Department shall not sanction the registrant, distributor or dealer if the cancelled or discontinued pesticide or device is distributed, sold or offered for sale within this state after the two year conditional registration period unless the pesticide or device was placed into channels of trade after the registrant notified the Department of its intent to cancel or discontinue the registration of the pesticide or device.

35:30-17-17.3 Pesticide and device labeling

The Department adopts the same requirements for pesticide and device labeling found at 40 CFR § 156.10.

(1) The Department shall accept a copy of the latest fully corrected label accepted by the United States Environmental Protection Agency (EPA) for federal registration of the pesticide provided the label is compliant with labeling requirements existing when the label was submitted to the Department. Additionally, a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace and a copy of the safety data sheet (SDS) shall be submitted with each registration application.

(2) The Department shall accept a copy of the latest fully corrected label accepted by the EPA for federal registration of the device provided the label is compliant with labeling requirements existing when the label was submitted to the Department. Additionally, a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace.

(3) For pesticides exempt from federal registration pursuant 7 USC § 136w(b) (referred to as “FIFRA 25(b) products”), the Department shall accept a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace and a copy of the safety data sheet (SDS) shall be submitted with each registration application.

(4) Notwithstanding the foregoing, Federally accepted labeling does not obligate the Department to register any pesticide or device for use in the State. The Department may refuse to register a product if the Department determines there is insufficient credible evidence concerning the formulation, efficacy, or suitability for use in Oklahoma.

(4) Before registering a pesticide or device for use in Oklahoma, the Department may require the submission of satisfactory data from the registrant supporting any claims about the formulation, efficacy, or suitability for use in Oklahoma.

35:30-17-17.4. Spray adjuvant

Labels for spray adjuvants shall include:

(1) Product brand name;

(2) Type or function of principal functioning agents. Terms used to describe adjuvant functions shall be consistent with ASTM International Standards E 1519 and E 609. If

ASTM International has not defined a term, the Department will determine the appropriate term. Functions claimed shall be consistent with the principal functioning agents. If two (2) or more functions are claimed, the functions shall be listed in descending order starting with the primary function;

(3) Ingredient statement that includes:

(A) Principal functioning agents listed by chemical name in descending order of composition with either individual or total percentages. If more than three (3) functioning agents are present, only the three (3) principal agents are required to be listed;

(B) Percentage of constituents ineffective as spray adjuvants; and

(C) Total percentage of all ingredients which shall equal one hundred percent (100%);

(4) Directions for use that include a description of intended uses and recommended use rates;

(5) Precautionary statements adequate to protect people and the environment that include:

(A) Statement "Keep Out of Reach of Children"; and

(B) Statement prohibiting aquatic use unless the registrant provides data to demonstrate that the proposed use will not cause unreasonable adverse effects to fish and aquatic invertebrates;

(6) Appropriate storage and disposal statement;

(7) Name and address of the registrant or manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, the name shall be qualified by appropriate wording such as "Packaged for" or "Distributed by"; and

(8) Weight or measure of the contents.

35:30-17-18. Dealer permits

(a) Dealer permits shall be issued for a period of one (1) year and shall expire annually on December 31 of each year.

(b) Dealer permit applications must be received no later than the fifteenth day of the month following the date of expiration.

PART 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS

35:30-17-20. Contract contents

(a) Contracts shall be issued for the commercial application of pesticides in the Structural Pest Category. Information on the contracts shall include:

(1) Specific information from 2 O. S. Sections 3-81(11) and 3-83, and OAC 35:30-17-21.

(2) Minimum standards for termite work for existing structures and preconstruction applications. Any minimum requirements that will not be met shall be explained in the contract.

(b) Visible termite damaged material, whether structural or superficial, that will not be replaced or repaired at the time of the original contract shall be in the contract in a clear statement, e.g. "No replacements of damaged material due to termites or other wood destroying organisms are to be made."

(c) "Replaced" means to remove all visible damaged material and bring the area back to sound condition using new materials. The use of putty, paint, or similar materials shall not constitute replacement.

(d) "Repaired" means to bring the area back to sound condition.

(e) Prior to entering into a contract, all service terms, including the cancelation policy, must be clearly conveyed to the customer and a copy of the contract must be provided to the customer at the time the contract is signed.

35:30-17-21. Records required for pesticide applications and restricted use pesticide sales

(a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum show:

(1) Start and stop time of application.

(2) Total amount of pesticide used.

(3) Name and address of the commercial or non-commercial company.

(4) Name, certification number, and certification expiration date of the certified

applicator who made or supervised the application and name of the non-certified applicator under direct supervision, if any.

(5) Name and address of person for whom applied.

(6) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.

(7) Date of application.

(8) Application rate.

(9) Dilution rate for mixing.

(10) Total quantity tank mix used.

(11) Complete trade name of pesticide product used.

(12) EPA registration number of pesticide product used.

(13) Name of adjuvants used when the label requires specific adjuvants.

(14) Name of drifting agents used when the label requires specific drifting agents.

(15) Target pest for the application.

(16) Site where the pesticide was applied.

(17) Size of the area treated.

(18) Restricted Entry Interval as stated on the product label.

(19) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.

(20) Copies of any contracts issued.

(21) Copies of any wood infestation reports issued.

(22) Other information as required by the Board.

(b) Private applicators of restricted use pesticides shall keep accurate records pertaining to applications, which, at a minimum, show:

(1) Start and stop time of application.

(2) Total amount of pesticide used.

(3) Name and address of the private applicator.

(4) Name, certification number, and certification expiration date of the certified applicator who made or supervised the application and name of the non-certified applicator under direct supervision, if any.

(5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.

(6) Date of application.

(7) Application rate.

(8) Dilution rate for mixing.

(9) Total quantity tank mix used.

(10) Complete trade name of pesticide product used.

(11) EPA registration number of pesticide product used.

(12) Name of adjuvants used when the label requires specific adjuvants.

(13) Name of drifting agents used when the label requires specific drifting agents.

(14) Target pest for the application.

(15) Site where the pesticide was applied.

(16) Size of the area treated.

(17) Restricted Entry Interval as stated on the product label.

(18) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.

(19) Other information as required by the Board.

(c) Restricted use pesticide dealers shall keep accurate records of restricted use pesticide sales, which, at a minimum show:

(1) Complete brand name of the pesticide.

(2) EPA registration number of the pesticide.

(3) Date the pesticide was sold.

(4) Total amount of restricted use pesticide sold.

(5) Name and address of the residence or principal place of business of any person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.

(6) Name, address, license or certification number, and certification expiration date or copy of the applicator's card of a certified or private applicator.

(7) The category(ies) in which the applicator is certified relevant to the pesticide(s) sold.

(8) Other information as required by the Board.

(d) Failure to allow inspection of records by the Board, to provide copies of records to the Board when requested in person, or to provide a summary of records to the board within seven (7) working days when requested by mail or in person shall be a violation of this section.

(e) Records retained pursuant to this section shall be easily accessible for inspection by authorized agents of the Board during reasonable business hours.

(f) Commercial and non-commercial applicators shall maintain records retained pursuant to this section at their principle place of business. A commercial or non-commercial applicator's principle place of business shall not be located in a closed gated community or at a residence unless the applicator submits a plan of access to the principle place of business and that plan is approved by the Board.

(g) Proof of training for a service technician making termite application shall be recorded by the licensee and available for review by the Department. The training records shall include the following information: (1) Name; (2) Date of training; and (3) Service technician number.

PART 10. MINIMUM STANDARDS FOR PESTICIDES

35:30-17-22. Restricted use pesticide

(a) Any pesticide classified for restricted use by the U.S. Environmental Protection Agency, either by regulation (40 CFR 162.31) or through the registration process, shall also be classified as restricted use for 2 O.S. Section 3-81 et al.

(b) Restricted use pesticides can only be sold to stores with a restricted use pesticide dealer permit or to individuals who are certified in the category for which the restricted use pesticide may be applied.

35:30-17-22.1. Pesticide tolerances

Pesticide tolerances on raw agricultural commodities over which the Board has jurisdiction are the same as those found in Part 180 of Title 40, Code of Federal Regulations.

35:30-17-22.2. Pesticide enforcement

The Board is authorized to enter any premise during normal business hours for the purpose of:

(1) Determining whether pesticides or devices comply with the provisions of the law.

(2) Procuring samples of pesticides and devices.

(3) Examining and obtaining copies of records and documents relative to the shipment, manufacture, application of, or sale of pesticides or devices.

(4) Monitoring and evaluating the application and effects of application of any pesticide registered as a Special Local Need 24©, Experimental Use Permit, or Emergency Exemption Section 18 of the Federal Pesticide Law (FIFRA).

(5) Enforcing the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq.

35:30-17-22.3. Experimental use pesticides or devices

The registration of any pesticide or device for experimental use within this state shall be accompanied by a copy of the proposed experimental program including the name and address of the person responsible for the use and evaluation of the pesticide or device in the state.

35:30-17-22.4. Time periods for application review

(a) The registrant shall file with the Board a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.

(2) The name of the pesticide or device.

(3) A complete copy of the labeling accompanying the pesticide or device and a statement of all claims made including directions for use.

(4) Upon Board request, a full description of the tests made and the results used to verify the claims. In the case of renewal registration, a statement shall be required only with respect to information, which is different from that furnished when the pesticide or device was last registered.

(b) Time periods shall be allocated for review of applications for pesticide product registration and restricted use pesticide dealers permits as follows:

(1) The Department shall review a new application within fifteen (15) working days from the date received.

(2) Any renewal application for registration or permit received prior to the renewal date established by the Board shall be considered valid until a final determination is made.

(3) Following review, if it is determined that the requirements have been met, the appropriate registration or permit will be issued within ten (10) working days of the determination date.

(4) Following review, if it is determined that the requirements have not been met, the application for registration or permit shall be denied. Notification of the denial shall be made in writing to the applicant within ten (10) working days of the determination. The notification shall state the reason for the denial and identify steps necessary to meet the requirements for issuance.

PART 11. STANDARDS FOR APPLICATION OF PESTICIDE

35:30-17-24. Approved chemicals and equipment

(a) Only chemicals which are properly labeled as pesticide products and registered with the Department shall be approved for use as provided for in 2 O.S., Section 3-85.

(b) Any use inconsistent with the pesticide product labeling, registered with the Department is prohibited unless prior written approval for the use has been obtained from the Board. Approval may be obtained by application with reference to:

(1) Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, application procedures.

(2) Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, application procedures.

(3) Section 2(ee) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, for commercial and noncommercial pesticide applications.

(c) To protect public health and the environment, failure to follow precautionary and recommended language included in the pesticide product label may be considered a use inconsistent with the label.

(d) Every applicator of pesticides shall employ an appropriate method to prevent the backflow of spray materials during filling, mixing, and/or application operations. The method shall include, but not be limited to, the employment of a check valve or

similar in-line device, or positive mechanical method, such as an air gap, designed to insure that backflow shall not occur.

(e) No person shall use a mist blower or other type of air blasting or misting equipment for the application of hormone type herbicides within the State except where the following specific conditions exist:

(1) Forest nursery and timber production areas where the control of undesirable vegetation with a hormone type herbicide is necessary and the area cannot be covered by any other type of ground application equipment.

(2) Range, pasture, and crop areas where control of undesirable vegetation with a hormone type herbicide is necessary and a specific type of terrain feature such as a gully precludes the use of any other type of ground application equipment.

(3) Unmanned aerial applicators using hormone type herbicides must be a certified applicator, private applicator, or service technician.

(f) Application of a hormone type herbicide under one of the exceptions given in paragraph (e) of this Section is subject to the following restrictions:

(1) At no time during the application shall the outlet point above horizontal.

(2) At no time shall an application be performed in a wind speed over 10 MPH.

(3) The person making the application shall keep records as required by law.

(4) Unmanned aerial applications cannot be made more than 15 ft above the application site unless otherwise allowed by the label.

35:30-17-24.1. Restricted use areas

(a) Applications of products containing 2,4-D esters or dicamba as an active ingredient to agricultural lands shall not be made in Greer, Harmon, and Kiowa counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.

(b) Applications of products containing 2,4-D, dicamba, picloram, triclopyr, or clopyralid as an active ingredient to agricultural lands shall not be made in Jackson and Tillman counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.

(c) Any person intending to apply any of the herbicides listed in subsection (a) or (b) in the counties and during the times prohibited must keep records in accordance with O.A.C. 35:30-17-21.

(d) Failure to comply with this section shall be a violation.

(e) All records and notifications required by this section shall be in addition to any

records required to be maintained by a commercial applicator pursuant to other rules.

(f) The provisions of this section shall not apply to applications of 2,4-DB.

35:30-17-25. Pesticide application by certified applicators, non-certified applicators, service technicians, and private applicators

(a) A certified applicator shall be on site to use any pesticide when required by the label or labeling.

(b) A certified applicator shall be on site to supervise any pesticide application by a non-service technician.

(c) A service technician shall be on site to make the actual application of any pesticide unless a certified applicator is present at the job site.

(d) A certified applicator may be a service technician in other categories for a licensed company without completing the service technician's examination.

(e) Certified applicators, non-certified applicators, service technicians, and private applicators shall be a minimum of eighteen (18) years of age to purchase restricted use pesticides and to make pesticide applications.

(f) "Noncertified applicator" means a person who has not met the exam qualifications of a certified applicator.

(g) "Nonservice technician" means a person who has not met the exam qualifications of a service technician.

(h) A noncertified applicator shall receive approved safety training from a certified applicator or qualified trainer prior to application of a restricted use pesticide as outlined in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 40 CFR Section 171.201.

(1) Employers of noncertified applicators shall keep the following records for a minimum of two (2) years:

(A) The printed name and signature of the noncertified applicator;
(B) The name of the person who provided the approved training;
(C) The date the training was completed; and
(D) The title or description of the training.

(2) The provisions of this subsection shall not apply to a noncertified applicator making an application of restricted use pesticide on a family farm.

(3) For the purposes of this section a "noncertified applicator" shall mean an applicator who is not a certified applicator, service technician, or private applicator.

(i) A certified applicator, private applicator, or service technician must be on site during unmanned aerial applications.

35:30-17-26. Labeling of pesticides

(a) Every container used to dispense (apply) pesticide (except bait boxes used for rodent control) shall be accompanied by a copy of a readable label for the pesticide within the container. The label shall either be attached to the container or be present on or in the vehicle used to transport the container.

(b) Every rodent control bait box in an accessible area which is not locked or secured against tampering shall have attached to it a readable statement containing the EPA registration number, active ingredient and recognized trade name of the pesticide, the appropriate signal information (caution, warning or danger - poison), and the name and address of the pesticide application company.

35:30-17-27. Fluoroacetate compounds

(a) The term "Fluoroacetate compounds", shall mean Sodium Fluoroacetate (Compound 1080), Fluoroacetamide (Compound 1081), or related Fluoroacetate mixtures, formulation, dilutions, or combinations.

(b) For rodent control the use of Fluoroacetate compounds, as defined in (a) of this Section, is prohibited without written authorization granted by the Department. The authorization may only be granted following a written request including justification of the need for the use, documentation that all alternative rodent control methods have been tried and found to be ineffective, demonstration that the public health and welfare is in jeopardy, and any other requirements specified by the Board to safeguard the public health, safety, and welfare.

(c) For predatory animal control, the use of Fluoroacetate compounds, as defined in (a) of this Section, is limited to applicators certified under the Bird and Predatory Animal Control category and approved by U. S. Fish and Wildlife.

PART 12. MINIMUM RESIDUE LEVELS FOR TERMITICIDES APPLIED TO SOIL AND PERMITTED TOLERANCES FOR PESTICIDE TANK MIX AND CONCENTRATE SAMPLE ANALYSIS

35:30-17-28. Soil residue levels, parts per million (ppm).

(a) Post construction termiticide treatments with sampling performed within 180 days of treatment shall disclose residue threshold levels established in the vertical barrier for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products shall have a residue

threshold level of 63 ppm.

(2) Tribute and other 24.5 % Esfenvalerate products shall have a residue threshold level of 150 ppm.

(3) Prevail FT and other 24.8% Cypermethrin products shall have a residue threshold level of 46 ppm.

(4) Demon TC and other 25.3% Cypermethrin products shall have a residue threshold level of 28 ppm.

(5) Dragnet FT and other 36.8% Permethrin products shall have a residue threshold level of 85 ppm.

(6) Premise and other Imidacloprid products shall have a residue threshold level of 10ppm.

(7) Termidor WG, Termidor SC, and other Fipronil products shall have a residue threshold level of 12 ppm.

(8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products shall have a residue threshold level of 46 ppm.

(9) Permethrin TC, EPA Reg. No. 51036-287, and Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products shall have a residue threshold level of 85 ppm.

(10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products shall have a residue threshold level of 28 ppm.

(11) Talstar One Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products shall have a residue threshold level of 11 ppm.

(12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products shall have a residue threshold level of 11 ppm.

(b) Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the vertical barrier for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 90ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 63ppm.

(2) Tribute and other 24.5 % Esfenvalerate products:

(A) Shall have a residue threshold level within 30 days of treatment of 204ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 150ppm.

(3) Prevail FT and other 24.8% Cypermethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 64ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 46ppm.

(4) Demon TC and other 25.3% Cypermethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 41ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 28ppm.

(5) Dragnet FT and other 36.8% Permethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 97ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 85ppm.

(6) Premise and other Imidacloprid products:

(A) Shall have a residue threshold level within 30 days of treatment of 10ppm.

(C) Shall have a residue threshold level after 30 days and within 180 days of treatment of 10ppm.

(7) Termidor WG, Termidor SC, and other Fipronil products:

(A) Shall have a residue threshold level within 30 days of treatment of 12 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 12 ppm.

(8) Cypermethrin G-Pro, EPA Reg. No. 79676-1 and other 24.8% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 64 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 46 ppm.

(9) Permethrin TC, EPA Reg. No. 51036-287, Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 97 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 85 ppm.

(10) Demon Max Insecticide, EPA Reg. No. 100-1218 and other 25.3% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 41 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 28 ppm.

(11) TalstarOne Multi-Insecticide, EPA Reg. No. 279-3206 and other 7.9% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(c) Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the horizontal barriers for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 68ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 47ppm.

(2) Tribute and other 24.5 % Esfenvalerate products:

(A) Shall have a residue threshold level within 30 days of treatment of 153ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 113ppm.

(3) Prevail FT and other 24.8% Cypermethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 48ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 35ppm.

(4) Demon TC and other 25.3% Cypermethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 31ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 21ppm.

(5) Dragnet FT and other 36.8% Permethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 73ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 64ppm.

(6) Premise

(A) Shall have a residue threshold level within 30 days of treatment of 5ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 5ppm.

(7) Termidor WG, Termidor SC, and other Fipronil products:

(A) Shall have a residue threshold level within 30 days of treatment of 9 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 9 ppm.

(8) Cypermethrin G-Pro, EPA Reg. No. 79676-1 and other 24.8% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 48 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 35 ppm.

(9) Permethrin TC, EPA Reg. No. 51036-287, and Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 73 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 64 ppm.

(10) Demon Max Insecticide, EPA Reg. No. 100-1218 and other 25.3% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 31 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 21 ppm.

(11) TalstarOne Multi-Insecticide, EPA Reg. No. 279-3206 and other 7.9% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(d) Any distributor product, as defined by 40 C.F.R. § 152.132, or any product with an alternate brand name and identical registration number shall be subject to the residue threshold levels for the related primary registration or brand name contained in this section.

(e) Any product not listed in this section shall have the residue threshold levels as established either through independent research projects accepted by the Department or through accepted documentation provided to the Department by the manufacturer.

(1) Any residue threshold levels established pursuant to this subsection shall be communicated to the public through the Department's website.

(2) The Department shall maintain a list of all records, studies, and correspondence utilized to establish residue threshold levels pursuant to this subsection.

35:30-17-29. Tank mix sample tolerances.

(a) The values expressed shall establish the maximum and minimum tolerance for the analysis of pesticide tank mix samples. Values above or below the concentration stated by the applicator that do not fall within the permitted tolerances listed shall be a use unsuitable, unsafe, or inconsistent with the label.

(1) Stated concentration of an active ingredient is less than 0.51%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 150% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 60% of the stated concentration.

(2) Stated concentration of an active ingredient is not less than 0.51% and not more than 1.0%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 140% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 70% of the stated concentration.

(3) Stated concentration of an active ingredient is not less than 1.0% and not more than 5.0%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 140% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 80% of the stated concentration.

(4) Stated concentration of an active ingredient is not less than 5.0% and not more than 10.0%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 130% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 84% of the stated concentration.

(5) Stated concentration of an active ingredient is not less than 10.0% and not more than 50.0%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 125% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 88% of the stated concentration.

(6) Stated concentration of an active ingredient is not less than 50.0% and not more than 100%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 115% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 92% of the stated concentration.

(b) No pesticide shall be formulated into a tank mix at a concentration in excess of that permitted by the pesticide label.

35:30-17-30. Concentrate sample tolerances.

(a) The values expressed shall establish the maximum and minimum tolerance for the analysis of pesticide concentrate samples. Values above or below the concentration of active ingredient stated on the product label that do not fall within the permitted tolerances listed shall be “adulterated”.

(1) Stated concentration of an active ingredient on the product label is less than 0.51%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 150% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 80% of the stated concentration.

(2) Stated concentration of an active ingredient on the product label is not less than 0.51% and not more than 1.0%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 140% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 85% of the stated concentration.

(3) Stated concentration of an active ingredient on the product label is not less than 1.0% and not more than 5.0%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 140% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 90% of the stated concentration.

(4) Stated concentration of an active ingredient on the product label is not less than 5.0% and not more than 10.0%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 130% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 92% of the stated concentration.

(5) Stated concentration of an active ingredient on the product label is not less than 10.0% and not more than 50.0%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 125% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 94% of the stated concentration.

(6) Stated concentration of an active ingredient on the product label is not less than 50.0% and not more than 100%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 115% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 96% of the stated concentration.

(e) The values expressed shall establish the minimum content for the analysis of fertilizer or pesticide mixtures, pressed blocks, and non-uniform bait samples. Values below the concentration of active ingredient stated on the product label that do not equal or exceed the minimum content listed shall be “adulterated”.

(1) When the stated concentration of an active ingredient on the product label is less than 1.26%, the minimum amount of active ingredient in the sample shall not be less than 67% of the stated concentration

(2) When the stated concentration of an active ingredient on the product label is not less than 1.26% and not more than 5.0%, the minimum amount of active ingredient in the sample shall not be less than 80% of the stated concentration.

(3) When the stated concentration of an active ingredient on the product label is more than 5.0%, the minimum amount of active ingredient in the sample shall not be less than 85% of the stated concentration.

(f) The values expressed shall establish the minimum content for the analysis of rotenone, pyrethrin, and other natural product formulation samples. Values below the concentration of active ingredient stated on the product label that do not equal or exceed the minimum content listed shall be “adulterated”.

(1) When the stated concentration of an active ingredient on the product label is less than 0.51%, the minimum amount of active ingredient in the sample shall not be less than 70% of the stated concentration.

(2) When the stated concentration of an active ingredient on the product label is not less than 0.51% and not more than 1.25%, the minimum amount of active ingredient in the sample shall not be less than 80% of the stated concentration.

(3) When the stated concentration of an active ingredient on the product label is more than 1.25%, the minimum amount of active ingredient in the sample shall not be less than 85% of the stated concentration.

PART 15. MINIMUM STANDARDS FOR TERMITE WORK FOR EXISTING STRUCTURES

35:30-17-54. Minimum standards for termite work

The minimum standards for termite work at existing structures shall be followed, unless the exceptions contained in Section 35:30-17-69.2 apply.

35:30-17-55. Access

Where new or modified access openings are necessary, they shall be a minimum of 14" X 16" to permit entrance under all crawl spaces. No wood of any access opening shall be in contact with the soil.

35:30-17-56. Debris and form boards

Wood or other cellulose material that can be caught with a rake shall be removed from the ground in the crawl area. Visible form boards shall be removed. Form boards that are buried in concrete shall be removed if practical. Visible stumps and any other cellulose materials that are not removed shall be treated.

35:30-17-57. Clearance under buildings

(a) Where necessary for proper treatment, all soil less than twelve inches (12”) from the bottom edge of the floor joist or less than five inches (5”) from the stringer, but not below the top of the footing of foundation walls, shall be removed. If foundation footings are less than twelve inches (12”) below the bottom of the joist, a bank of soil twelve (12”) to eighteen (18”) wide shall be left adjacent to the footing for support.

(b) The clearance between floor joists and stringers and the soil are minimums.

(c) Where the footing is exposed at soil level, trench and treat along the edge of the footing but not below the bottom of the footing.

35:30-17-58. Shelter tubes

Remove all accessible shelter tubes.

35:30-17-59. Piers and stiff-legs

Stiff-legs, wood steps, or other wood supports shall be treated according to label directions.

35:30-17-65. Stucco, frame siding, or similar type materials

Where stucco, frame siding, or similar type materials extend to or below grade, termiticide shall be applied in trenches dug below and under the bottom edge to assure treatment of the soil. Where concrete slabs prevent trenching, the soil beneath shall be treated through holes drilled in the slab.

35:30-17-66. Soil treatment under buildings

(a) Soil treatment under a building shall include the following:

(1) Termiticides shall be applied underneath the structure as specified on the label.

(2) For inaccessible crawl spaces where making a new access opening is not feasible, soil shall be treated by an alternate method pursuant to the label.

(3) Termiticide shall not be applied to soil intended for a plenum air space unless permitted by the label.

(4) An overall broadcast application of termiticide shall not be made in a crawl space unless permitted by the label.

(5) Treatment of the backfill of the trench is permitted, and shall be stated in the contract.

(6) Soil applied termiticide shall not be used to treat any structure containing a well or cistern unless allowed by the label of the termiticide.

(b) These minimum standards shall not be written out of a contract.

35:30-17-67. Void treatment

(a) Voids shall be drilled or otherwise entered and treated. Drill holes shall be securely plugged after treatment except in crawl spaces, unless required by the label. Application pressure shall not exceed 25 psi.

(b) Masonry veneer voids shall be entered and treated.

(1) Veneer resting on unbroken concrete that extends more than twelve inches (12") above the outside grade shall not require treatment.

(2) Masonry veneer shall be treated by drilling at intervals no greater than sixteen inches (16”) and applying termiticide into the void at the label rate.

(3) The treatment holes shall be no higher than the level of the top of the slab.

(c) Voids in a given row of a concrete block wall, except those sitting on an unbroken concrete slab floor, shall be drilled or entered and treated.

(1) Drilling may follow the grade contour, but shall not be made in the bottom row of blocks. The concrete blocks that sit on an unbroken concrete slab floor shall not be drilled and treated. Where termite activity is present, the floor slab shall be drilled or rodded underneath.

(2) Where concrete block foundations have adequate openings at the top, treatment may be applied at the opening in lieu of drilling so long as stated in the contract.

(d) Chimneys shall be treated in all critical areas.

(1) Critical areas to be treated are the expansion joints between the floor slab and stem wall, the fireplace and chimney base and stemwall, and the outer voids.

(2) The fireplace and chimney base and stemwall may be treated by long rodding.

35:30-17-68. Soil treatment outside of building

The exterior soil along the foundation or veneer wall shall be trenched or trenched and rodded through the bottom of the trench. Treatment of the backfill of the trench is permitted. Rod holes shall not be spaced more than twelve inches (12”) apart. The size of the trench shall be consistent with product label requirements.

(1) Where the footing is exposed at ground level, trench or trench and rod through the bottom of the trench along the outside edge of the footing.

(2) Where trenching or trenching and rodding is not possible due to presence of masonry walls, gutters, terraces, sidewalks, and other similar locations, holes shall be drilled at not more than twelve inch (12”) intervals and the soil shall be treated adjacent to the structure.

35:30-17-69. Concrete slabs for existing structures

(a) The minimum standard for existing structure concrete slabs shall include the following:

(1) Termiticide shall be injected immediately under and adjacent to the slab at the rate specified on the label by drilling and treating to create a continuous barrier between the soil and the outside perimeter walls of the structure. Use of a sub-slab injector or similar device to prevent backflow is recommended. All drill holes shall be securely plugged. Application pressure shall not exceed 25 psi. Monolithic, supported slab with thickened perimeter or post tension slabs, with or

without footing, shall be treated by drilling only in areas where known cracks exist.

(2) Where evidence of termite infestation exists on interior walls, the slab shall be treated by drilling the slab and treating the soil under the slab at the base of the wall where the termite activity is present and continue for a minimum of three (3) feet in at least two (2) directions from the termite activity. The treatment may be performed on either side of the wall if construction elements prevent treatment on the side of termite activity, so long as the reason for treating only one side of the treatment is discussed on the contract and the customer consents in writing.

(3) Maximum spacing for drilling shall be twelve (12”) except where long rodding of the perimeter is performed.

(4) Termiticide shall not be applied to any area intended as a plenum air space unless permitted by the label.

(5) Soil applied termiticide shall not be used to treat any structure containing a well or cistern unless allowed by the label.

(6) Basement concrete slab floors shall not be drilled and treated unless there is evidence of termite infestation in the basement area.

(7) Where wooden parts are resting on known cracked concrete or expansion joints, including but not limited to garage floor, patio, porches, or interior, holes shall be drilled on one or both sides of the wooden part and the soil below treated. Where wood parts extend into or through concrete slab or are adjacent to an expansion joint, the slab adjacent to the wood part shall be drilled at a maximum of twelve inch (12”) intervals on one or both sides and treated.

(8) Dirt filled porches, entry platforms, sidewalks, patios, and other similar areas shall be treated by drilling or rodding. If drilled, holes shall not be in excess of twelve inches (12”) apart.

(b) These minimum standards shall not be written out of a contract

35:30-17-69.1. Perimeter Termite Treatments

(a) These minimum standards are intended to address perimeter termite treatments with termiticides which allow perimeter treatments.

(b) Perimeter treatments can not be performed using any pesticide which does not allow this type treatment as stated on the product label.

(1) Perimeter Termite Treatments shall be considered a complete structural treatment unless limited by the label.

(2) The exterior open ground area along the foundation wall shall be trenched or trenched and rodded through the bottom of the trench to the bottom of the footing at no more than twelve inch (12") intervals. The trench shall be

a minimum of six inches (6") in depth and six inches (6") wide. The trench shall be backfilled and the backfill treated at label rate. If physical obstructions prevent trenching then rodding can be performed at twelve inch (12") intervals.

(3) All concrete slabs adjoining the structure shall be drilled and treated at no more than twelve inch (12") intervals.

(4) With an accessible crawl space, all piers, pipes and interior support walls shall be trenched or trenched and rodded through the bottom of the trench to the bottom of the footing at no more than twelve inch (12") intervals. The trench shall be a minimum of six inches (6") in depth and six inches (6") wide.

(5) If termites are found in an inaccessible crawl space the soil shall be treated in accordance with label directions.

(6) Treatment of a garage shall be performed around all garage door supports and along any wall or portion of wall that has not been treated in accordance with this section. The drilling shall be at twelve inch (12") intervals.

(7) Basements shall be trenched or trenched and rodded through the bottom of the trench to a depth of at least four feet (4'). The trench shall be a minimum of six inches (6") in depth and six inches (6") wide.

(8) The contract shall specifically identify the exact location where a spot treatment is performed and the treatment shall meet all minimum standards for the specific location identified. The spot treatment shall be at least three feet (3') in two (2) or more directions.

35:30-17-69.2. Exceptions to minimum standards

(a) Exceptions to minimum standards for a complete treatment shall include the following:

(1) The property owner agrees with the written explanation in the contract as to why the standard was not performed. Sections 35:30-17-66 and 35:30-17-69 shall in no case be written out of the contract; and

(2) The termiticide label specifically allows for a variation and the variation is stated in the contract.

(b) Exceptions to minimum standards for a spot or partial treatment shall include the following:

(1) The property owner agrees with the written explanation in the contract as to why the standard is not performed, or the termiticide label specifically allows for a

variation and the variation is stated in the contract. Sections 35:30-17-66 and 35:30-17-69 shall in no case be written out of the contract.

(2) The contract shall include the statement, “This is a SPOT/PARTIAL treatment” or otherwise clearly convey that the treatment is not a complete termite treatment.

(3) The contract shall specifically identify the exact location where the spot treatment is performed and the treatment shall meet all minimum standards for the specific location identified. The identified spot treatment location shall be at least three feet (3’) in two (2) or more directions but shall not be equal to the entire structure.

(4) The contract shall not contain any misrepresentations or false claims regarding the effectiveness of a spot or partial treatment.

(c) The Board of Agriculture may grant an exception to existing rules or minimum standards if:

(1) The registered pesticide allows for the use or application method that is currently prohibited under rule or minimum standards; and

(2) The manufacturer provides verifiable research data to the Board concerning the efficacy of the chemical or methodology.

35:30-17-69.3. Borate or other wood applied termiticide treatment for post-construction

(a) Any borate or other wood applied termiticide may be used as a stand-alone or primary treatment for the prevention and control of subterranean termites in new construction and post construction if the product is labeled for such an application. The product must be registered by the Environmental Protection Agency and with the State of Oklahoma.

(b) A sticker, tag, or stencil must be placed on a stud in the attic readily visible within 5 feet of the attic access which displays the name of the applicator company, application date, and the name of the termiticide used. If a sticker or tag is used the words “Do not Remove” must also be displayed on the sticker or tag.

(c) A product information sheet must accompany the contract and the contract must be provided to the customer.

(d) For post construction treatments follow all the product’s labeled directions.

(e) All contracts and records keeping requirements must be kept in accordance with 2 O.S. § 3-81(11) and O.A.C. 35:30-17-21.

PART 17. MINIMUM STANDARDS FOR TERMITE WORK FOR PRECONSTRUCTION (PRETREATS) AND NEW CONSTRUCTION

35:30-17-73. Concrete Slabs

(a) All pretreatment pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.

(b) Pretreatment of main slab areas (including attached garages) is as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.

(2) Horizontal barriers shall be established.

(3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent

(5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.

(6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.

(c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application**,** to the adjacent slabs which abut the main structure.

(2) Treatment and precautions shall meet the requirements in (b)(2) and (b)(3) of this Section.

(d) Pretreatment of outside foundations shall be as follows:

(1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure

after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.

(2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.

(e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).

(f) Any pretreatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. If a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.

(g) Pesticide applicators conducting pretreat applications shall issue Form NPCA-99b to the builder as an attachment to the contract.

(h) Before a concrete slab is poured, each new construction baiting system site shall be identified by a sticker or tag permanently affixed to one of the stub outs in an area which is readily accessible. The sticker or tag shall include the company name and the name of the baiting system that will be installed.

(i) All new construction pesticide applications shall be made within three (3) months after completion of construction with baiting systems approved by the Department which meet minimum specification requirements for the treatment. All new construction treatments shall follow pesticide label instructions, including application rates and methods, and the Minimum Standards Parts 9 and 18.

35:30-17-74. Borate or other wood applied termiticide treatment for new construction

(a) Any borate or other wood applied termiticide may be used as a stand-alone or primary treatment for the prevention and control of subterranean termites in new construction and post construction if the product is labeled for such an application. The product must be registered by the Environmental Protection Agency and with the State of Oklahoma.

(b) For new construction treatments the following areas must be treated if the product label does not have specific application instructions or if these areas are not on a product label that has specific application instructions.

(1) To ensure a more complete treatment the treatment must be performed when the structures framing is complete (“dried-in”) and prior to the installation of any other construction components that may hinder proper treatment including but not limited to insulation, electrical, heating and cooling systems, exterior wraps, etc.

(2) All exterior surfaces of wood or non-cellulose framing such as the exterior side of the sheathing shall be treated up to a height of not less than two (2) feet above a contact with a slab foundation or a (2) foot horizontal and vertical treatment of wood above contact with a concrete crawlspace or basement foundation.

(3) All interior surfaces of wood or non-cellulose framing such as studs and the interior side of the exterior sheathing shall be treated up to a height of not less than two (2) feet above a contact with a slab foundation or a (2) foot horizontal and vertical treatment of wood above contact with a concrete crawlspace or basement foundation.

(4) The slab floor around all service pipe penetrations and bath traps must be treated not less than (2) feet in all directions. The slab along the base plates of the structure must be treated no less than (1) foot out from the base plates. Garage floor slabs are not required to be treated.

(5) Any support piers in a crawl space must be treated up to a height of not less than two (2) feet above contact with the soil and the subfloor above the pier must be treated no less than (2) feet in all directions around the pier.

(6) Any exterior wooded supports resting on concrete such as porch or patio awning supports shall be treated at a height of not less than (2) feet above the slab.

(7) In areas where access to all sides of the wood surface is limited including but not limited to married studs, and exterior wall base plates allow the sprays on wood surfaces to dry for 20 minutes. A second treatment must be performed on these surfaces once the sprays have dried.

(8) Indicator dye is required on exterior wall sheathing, interior treatment areas, and in crawl spaces. Dye is not required in treatment areas where the concrete slab will not be covered such as garages, basements, or awning supports.

(9) Where known cracks in concrete slabs exist treat along the crack and at least (1) foot on both sides of the crack.

(c) The application site must be identified by a sticker, tag, or stencil in an area readily visible near the front entrance to the structure which displays the name of the applicator company, application date, and the name of the termiticide used.

(d) An additional sticker, tag, or stencil must be placed on a stud in the attic readily visible within 5 feet of the attic access which displays the name of the applicator company, application date, and the name of the termiticide used. If a sticker or tag is used the words “Do not Remove” must also be displayed on the sticker or tag.

(e) A product information sheet must accompany the contract and the contract must be provided to the customer.

(f) All contracts and records keeping requirements must be kept in accordance with 2 O.S. § 3-81(11) and O.A.C. 35:30-17-21.

PART 18. MINIMUM STANDARDS FOR THE USE OF TERMITE BAITS AND BAITING SYSTEMS FOR NEW CONSTRUCTION AND EXISTING STRUCTURES

35:30-17-75. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Station monitoring" means the act of inspecting a termite bait station per the manufacturer's label or as required by the Board.

"Termite bait" means any substance designed for ingestion by termites for the purpose of controlling termites in or around a structure.

"Termite baiting system" means any system of components used to control termites in or around a structure.

"Termite baiting system station" means any component of the termite baiting system that holds or delivers active ingredients to termites in or around a structure.

35:30-17-75.1. General requirements for application

(a) Commercial and noncommercial applicators applying termite bait or termite baiting systems shall have a valid Oklahoma license in the structural pest category.

(b) Application shall be performed by a certified applicator, certified in the structural pest category or under the terms of "Direct Supervision" as defined in 2 O.S. § 3-81(15).

(c) Any certified applicator or any person working under the supervision of a certified applicator who applies termite bait or termite baiting systems shall be trained in the use of termite baits or termite baiting systems prior to any application. The manufacturer shall give prior notice to the Board of the time, location, and agenda of certification and training programs. The Board may attend and observe certification and training programs. The manufacturer shall identify all trained certified applicators and service technicians in writing to the Board.

(d) A written contract pursuant to 2 O.S. § 3-81(11) and OAC 35:30-17-20 shall be completed prior to a termite bait or termite baiting system application, and shall also include the following:

(1) A term for at least one year with an option for renewal by the parties.

(2) A block for the consumer to initial verifying a consumer information sheet on the termite bait or termite baiting system was provided.

(e) Termite bait or baiting systems may be used as a new construction treatment in place of a preconstruction treatment.

(f) Above-ground bait stations shall be used according to their label when the presence of subterranean termites are detected in a structure. Above-ground bait stations shall be monitored no less than quarterly.

(g) Records of contracts, graphs, monitoring, and bait applications shall be kept according to the minimum standards.

(h) Proof of training for a service technician making termite application shall be recorded by the licensee and available for review by the Department. The training records shall include the following information:

(1) Name;

(2) Date of training; and

(3) Service technician number.

35:30-17-75.2. Recordkeeping

(a) In addition to other recordkeeping requirements contained in OAC 35:30-17-21, the applicator shall maintain the following records:

(1) Date, time, and location of all monitoring of a termite baiting system, including termite activity in non-baited stations, and baited stations;

(2) Linear feet of perimeter of a treated structure;

(3) Number of monitored or baited ground and above-ground bait stations installed around a structure;

(4) Inspection diagram; and

(5) Any bait application in or around the termite baiting system stations.

(b) A consumer information sheet, supplied by the manufacturer and approved by the Board, shall be obtained by the applicator. At the time of sale the applicator shall supply a copy of the approved consumer information sheet to the consumer. The consumer information sheet shall at a minimum include the following:

(1) Product function;

(2) Monitoring intervals of both baited and non-baited termite baiting system stations; and

(3) Indicate if the product is an immediate stop to termite feeding activity when known termite activity is present at the structure.

35:30-17-75.3. Manufacturer's label instructions

(a) Termite bait or termite baiting systems shall be used according to the manufacturer's label.

(1) Monitoring of termite bait system stations shall be used to detect the presence of subterranean termites. Both baited and non-baited termite baiting system stations shall be monitored according to the manufacturer's label. If the manufacturer's label does not address monitoring of baited and non-baited termite baiting system stations, they shall be monitored no less than once per month during the entire length of the contract.

(2) Termite bait system stations shall be placed according to manufacturer's label. Where the manufacturer's label does not address termite baiting system station placement, they shall be placed no more than twenty (20) feet apart around the perimeter of the structure as practicable. If bait system stations cannot be installed according to the manufacturer's label or at a maximum of twenty (20) feet apart due to concrete or other obstructions, stations may be placed outside of the obstructions so long as the span between structure and station does not exceed twenty (20) feet. If the span between structure and station exceeds twenty (20) feet, an alternate method of treatment shall be utilized for that section of the structure.

(3) Any deviation from the manufacturer's label or the twenty (20) feet maximum shall require a disclosure signed by the consumer prior to the termite bait or termite baiting system treatment. The disclosure shall include full identification of areas excluded and specify all reasons for not applying the termite bait or termite baiting system according to the manufacturer's label or the twenty (20) foot maximum and shall include all additional supplemental treatment rendered.

(b) Upon termination of the termite bait or termite baiting system contract, the applicator shall make reasonable efforts to remove all components of termite bait or termite baiting systems.

(c) The Board reserves the right to evaluate termite bait or termite baiting systems prior to registration in Oklahoma.

35:30-17-75.4. Replacements

A clear statement shall be contained in the contract if structural or superficial material with visible termite damage will not be replaced or repaired pursuant to the initial contract. The clear statement shall use the following or similar language, "No replacements of damaged material due to termites or other wood destroying organisms are to be made."

30-17-75.5. Requirements for combination liquid spot and bait and baiting systems treatments

(a) A contract shall identify the specific location where a spot treatment will be performed and the treatment shall meet all minimum standards for the specific location. The spot treatment shall be at least three (3) feet in two (2) or more directions unless the label requires a distance greater than three (3) feet.

(b) Combination of liquid spot and bait and baiting systems treatments shall be used according to label and the minimum standards. Above-ground bait stations shall be monitored no less than quarterly.

(c) Records of contracts, graphs, monitoring, and applications shall be retained. Upon termination of a contract, the pest control operator shall make an attempt to remove all components of bait and baiting systems.

(d) If 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 standards.

PART 19. MINIMUM FUMIGATION STANDARDS FOR STRUCTURES

35:30-17-77. Persons present at the time of releasing the fumigant and during the initial ventilation

There shall be at least two persons, one of whom must be a certified applicator in the fumigation category, present at the time of the releasing of the fumigant and during the initial ventilation. During the interim, the premises shall be adequately safeguarded against entry by any human being.

35:30-17-78. Notification of local law enforcement officials, etc.

Prior to fumigation of any building or enclosed space, other than a fumigating vault, the certified applicator shall notify and provide the local law enforcement and fire department with the address of the fumigation job, time of gas release, kind of gas to be used, and beginning time of the aeration of the premises.

35:30-17-79. Premises sealed

Premises to be fumigated shall be sealed in a manner that confines the fumigant to the space intended to be fumigated.

35:30-17-80. Inspection of premises prior to releasing fumigant

Immediately before releasing the fumigant, the fumigator shall conduct a thorough inspection of the premises to verify that no human beings or pets remain, and that effective precautions have been taken to safeguard occupants of neighboring buildings as set forth below.

35:30-17-81. Fumigation of apartments within a multiple unit apartment building

Fumigation of apartments within a multiple unit apartment building may be fumigated only after proper sealing of the area being fumigated and after all adjacent apartments beside, above, and below, are vacated, and all the adjacent units shall be properly ventilated during the entire exposure period.

35:30-17-82. Notification of all dwellings or places of business within 10 feet of building being fumigated

All dwellings or places of business within 10 feet of the building being fumigated must be notified in writing in advance of the fumigation, and all premises within 10 feet must be vacated during the fumigation and aeration periods.

35:30-17-83. Warning signs

Warning signs shall be posted conspicuously at all entrances of the premise to be fumigated and at the entrances of all adjacent multiple units and structures within 10 feet and kept there during the entire fumigation and ventilation period. Signs shall be a minimum size of 8½ inches by 11 inches and color to be conspicuous and bearing the word “poison” and display the skull and cross-bones, the name of the fumigant used, and the name, address and telephone number of the fumigator. Before the fumigant is released, all entrances leading directly to the fumigated space shall be closed, sealed, and locked except exits to be used by fumigating crew. These exits shall be closed, sealed, and locked promptly after the fumigant has been released.

35:30-17-84. Masks worn; antidotes

All members of the fumigating crew must be equipped with a serviceable mask of a type approved by the U.S. Mines, Safety, and Health Administration with correct canister for the type of gas used, and shall wear these masks while in the enclosed space during and after release of the gas, and until initial ventilation is completed. Appropriate antidotes shall be available during every fumigation.

35:30-17-85. Re-entering fumigated premises

No one other than the fumigator shall be permitted to re-enter the fumigated premises until the fumigator has ascertained by personal inspection, with gas mask and with the suitable test, that the premises are safe for occupancy.

35:30-17-86. Exceptions

This subchapter does not apply to fumigants used to control insects or other pests outside of buildings, or for spot fumigations, or restrictive treatments inside a building. During the ventilation period of a spot or restrictive fumigation, the premises shall not be occupied by anyone except the fumigator. A warning gas is recommended where the fumigant is comparatively odorless.

PART 20. MINIMUM STANDARDS FOR BED BUG TREATMENTS

35:30-17-87. General requirements

(a) When used in this section, "Heat as a method of pest control" shall mean performing heat treatments for the purpose of treating and controlling bed bugs or other insects.

(b) Heat as a method of pest control may be used by a licensed commercial or noncommercial entity to treat and control bed bugs or other insects in:

(1) A whole structure;

(2) An apartment unit, room, or portion of a room;

(3) A compartment containing furniture and possessions; and

(4) Modes of transportation including, but not limited to, vehicles, compartment trailers, buses and RV's.

(c) Prior to and when conducting heat as a method of pest control, applicators shall:

(1) Comply with applicable fire codes and local ordinances regarding the use of portable heaters, fire suppression systems, and other heat treatment related concerns;

(2) Only use equipment designed and tested for use as an insect control device for a whole structure, whole room, or apartment unit bed bug heat treatment;

(3) Carefully inspect heat equipment before use to ensure that it is in proper working order and no foreseeable fire hazards exist;

(4) When conducting whole room heat treatment, ensure that the equipment has the capacity to raise and hold the temperature in the treated area to a level lethal to bed bugs of at least one hundred twenty (120) degrees Fahrenheit;

(5) Ensure, through the use of heat sensors, that bed bug harborage areas are raised to a lethal temperature of at least one hundred twenty (120) degrees Fahrenheit and held for a sufficient period of time to kill all bed bugs and eggs depending on the size of the area being treated;

(6) Place sensors in areas that are insulated or slower to heat to ensure the lethal temperature is reached; and

(7) Monitor ambient air and surface temperature to avoid damage to heat sensitive items.

PART 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS

35:30-17-89. Purpose

These standards are in accordance with the Oklahoma Controlled Industrial Waste Disposal Act, in 63 OS, Section 1-2001 et seq., FIFRA, and Resource Conservation and Recovery Act (RCRA). These standards are intended to provide for the coordination of activities between the Oklahoma Department of Agriculture and the Oklahoma Department of Environmental Quality in the areas of generation, storage, treatment, and

disposal of pesticide wastes. In some circumstances, both agencies may exercise jurisdiction over a particular operation.

35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations

(a) The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) (2026 Revision), Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.

(b) All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

35:30-17-90. Definitions

In addition to terms defined in the Oklahoma Pesticide Applicator Law the following words or terms, when As used in this part, shall have the following meaning, unless the context clearly indicates otherwise Chapter:

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Disposal" means the final disposition of controlled industrial waste~~;~~ and shall include any discharge, deposit, injection, dumping, spilling, leaking, or placing of waste into or on the land or water so that the waste or any constituent may enter the environment, be emitted to the air, or be discharged to any waters, including ground waters.

"Generator" means any person, by geographic location, whose act or process produces controlled industrial waste or recyclable materials identified or listed in Appendix A or whose act first causes a controlled industrial waste or recyclable material to become subject to this subchapter.

"Hazardous materials" means those materials of commerce or manufacture which, if discarded, would be classified as controlled industrial waste.

"Incompatible wastes" means two (2) or more separate and distinct wastes which, when allowed to come into contact with each other, will mix or react so as to generate steam, toxic gases, pressure, extreme heat, flammable volatile gasses or liquids, shock-sensitive substances, or cause fire, explosion, or violent reactions.

"Industrial waste" means a collective term which may include both controlled industrial waste, controlled industrial waste to be recycled, and other industrial wastes.

"Operation" means the receiving, handling, treating, storing, or disposing of controlled industrial wastes in daily operations and the closing of controlled industrial waste facilities during closure operations.

"Other industrial waste" means refuse products which are designated by the Department of Environmental Quality to require special handling, but are not designated as "controlled industrial waste."

"Spill" means the accidental spilling, leaking, pumping, pouring, emitting, or dumping of controlled industrial waste, recyclable materials, or hazardous materials which when spilled become controlled industrial waste into or on any land or water.

"Surface impoundment" or **"impoundment"** means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

"Tank" means a stationary device designed to contain an accumulation of controlled industrial waste, which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

35:30-17-91. General requirements for pesticide waste

A commercial applicator of pesticides who generates wastes in excess of the quantities listed in Appendix A of this Chapter in any given month or who accumulates wastes in excess of those quantities at any time is also a generator of controlled industrial waste and is subject to rules adopted by the Oklahoma Department of Environmental Quality. Storage of wastes for more than 90 days by the generator, disposal, or other activities, including treatment, requires a permit from the Department of Environmental Quality.

35:30-17-92. Handling spills

(a) All uncontained spills of more than ten (10) gallons liquid or twenty-five (25) pounds dry weight of pesticide concentrate or fifty (50) gallons of an application mixture (tank mix) shall be reported within twenty-four (24) hours by telephone and by written notice within three (3) days to Oklahoma Department of Environmental Quality, 405-702-5100 or 800-522-0206, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677 and Pesticide Section, Oklahoma Department of Agriculture, Food and Forestry 405-521-3864, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804.

(b) All uncontained spills or backflow of any amount into a public water supply system, as defined by 27A O.S. § 2-6-101 (10), shall be reported within twenty-four (24) hours to the Oklahoma Department of Agriculture, Food, and Forestry.

(c) Any person shall be responsible for all costs associated with cleanups resulting from pesticide spills in that person’s operation.

35:30-17-93. Handling pesticide containers by commercial applicators, non-commercial applicators, private applicators, and restricted use pesticide dealers.

The following procedure governs the handling of pesticide containers except bulk pesticide containers:

(1) **Full or partially full containers.**

(A) Pesticide containers shall be stored in a secure and locked enclosure.

(B) Pesticide containers shall be free of leaks.

(C) The storage area shall be maintained in good condition without unnecessary debris.

(C) Storage areas shall be identified by signs.

(3) **Empty containers.**

Empty containers shall be stored in a secured area and kept for no more than ninety (90) days following use.

(3) **Metal, glass, and plastic containers:**

(A) All metal, glass, and plastic containers shall be triple-rinsed or pressure rinsed immediately after the pesticide is removed by the following or equivalent procedures:

(i) Using water or a detergent as a rinse capable of removing the pesticide, each container shall be filled with rinse equal to approximately ten percent (10%) of the volume of pesticides originally in the container.

(ii) The rinse shall be agitated thoroughly on all interior surfaces of the container. Agitation shall be accomplished by use of agitation equipment approved by the Department or by manual agitation of the rinse.

(iii) The rinsing procedure shall be repeated three times.

(iv) If the rinsate containing the rinse can be used in subsequent applications of the pesticide without reducing the effectiveness of the pesticide, the rinsate may be placed in the containment tank specified for that pesticide. If the rinsate is not classified as a controlled industrial waste upon disposal, it shall be placed in an approved surface impoundment.

(B) Upon completion of the triple-rinsing or pressure rinsing procedures, containers shall be disposed of as follows:

(i) Disposal in any permitted solid waste facility or sanitary landfill so long as all metal and plastic containers are pierced each end;
(ii) Return, if possible, to the pesticide sales agent or the pesticide manufacturer pursuant to prior agreement; or

(iii) Resale to a third party for recycling or reconditioning.

(C) All pesticides shall be removed from paper and plastic bags to the maximum extent possible when the pesticide is initially mixed for application. Paper and plastic containers shall be disposed of as follows:

(i) Cut all sides of the container and open the container fully, without folds or crevices, on a flat surface. Shake any pesticides remaining in the opened container into the pesticide mix.

(ii) After cutting and flattening the pesticide containers, dispose of containers in a solid waste facility or sanitary landfill.

35:30-17-94. Unused portions of pesticides and rinsate of pesticides which, upon disposal, are classified as hazardous waste

(a) Procedures for constructive recycling by commercial applicators of unused portions of pesticides and rinsate of pesticides that, upon disposal, are classified as hazardous wastes under EPA regulations shall include the following:

(1) Applicators of pesticides may recover and constructively reuse any unused portions of the pesticides and any rinsate by one of the following methods:

(A) Immediate reapplication of the unused portion of the pesticide and rinsate in accordance with label and labeling requirements;

(B) Transferring to a closed containment system meeting the requirement of 35:30-17-95; or

(D) Disposal in a permitted controlled industrial waste facility.

(2) All unused pesticides and rinsate from pesticides~~,~~ classified as a controlled industrial waste upon disposal shall be removed from containment tanks less than ninety (90) days after generation, unless the applicator has obtained a permit from the Oklahoma Department of Environmental Quality for longer periods of storage.

(3) In less than ninety (90) days after the final application for the season of a pesticide classified as a hazardous waste upon disposal, the applicator shall remove the contents of each containment tank, triple rinse or pressure rinse the containment tank by appropriate procedures, and apply the tank contents and rinsate in accordance with label and labeling requirements governing the initial application of the pesticide.

(b) A farmer disposing of waste pesticides from their personal use which are hazardous wastes shall triple rinse or pressure rinse each emptied pesticide container in accordance with 40 CFR 261.33 (c) and dispose of the pesticide residues in a manner consistent with the disposal instructions of the pesticide label.

35:30-17-95. Closed containment systems and commercial applicators

Any commercial applicator who elects to install a closed containment system for pesticides classified as a controlled industrial waste upon disposal, shall have the system completed and operational before the issuance of the certification or license. Requirements for the systems are:

(1) **Containment tanks:**

(A) Different containment tanks shall be installed for different pesticides and rinsate of pesticides. The same containment tanks shall only be used for two or more pesticides when the pesticides are physically and chemically compatible and when the mixing is not prohibited by the labels.

(B) Each containment tank shall:

(i) Be constructed of material of sufficient strength and compatible with the pesticide and rinsate placed within the tank.

(ii) Be free of leaks, cracks, holes, or other deterioration.

(iii) Be in good operating order.

(iv) Be designed to allow drainage of the entire contents and be triple rinsed or pressure rinsed.

(v) Be equipped with stopcocks at appropriate locations to prevent any leakage of the contents during storage or transfer of the contents.

(C) File final plans and specifications for approval by the Board for the construction of a closed containment system prior to the start of construction. The Board may consult with and seek the advice of the Oklahoma Department of Environmental Quality prior to approval.

(2) **Containment tank foundation.**

(A) The containment tank foundation shall be solidly constructed of a material sufficiently impervious to contain leaks, spills, and accumulated pesticides and rinsate of pesticides.

(B) The foundation covering shall be free of cracks.

(C) The foundation shall be sloped to facilitate cleanup of inadvertent spills.

(D) The foundation shall be constructed with a rim of sufficient height to contain run-off from cleanup activities or inadvertent spills and be protected from flood waters.

(E) The foundation shall be constructed to discharge all liquids into a sump.

(F) Tanks shall be located at a sufficient elevation to allow visual detection of leakage of the contents.

(4) **Containment systems** shall be located a suitable distance from any adjacent buildings, property lines, or public access roads, shall be in a secured area, and shall be protected from flood waters. Site plans showing location of the containment system shall be submitted for the approval of the Board prior to construction.

(5) **Final plans.**
Final plans and specifications for the construction of a closed containment system shall be submitted to the Board for approval and shall be subject to the

approval of the Oklahoma Department of Environmental Quality prior to the start of construction.

35:30-17-96. Surface impoundments of commercial applicators; unused portions of pesticides and/or rinsate of pesticides which, upon disposal, are not classified as hazardous wastes

(a) Unused portions of pesticides and/or rinsate resulting from the application of pesticides not classified under EPA regulations as a hazardous waste upon disposal should be handled by one of the following methods:

(1) By subsequent, immediate reapplication in accordance with label and labeling requirements for the pesticide.

(2) By deposit in a closed containment system which meets the requirements of 35:30-17-95.

(3) By disposal in surface impoundments which meet the requirements of this Subchapter.

(4) By any methods approved by the Board.

(b) Surface impoundments of commercial applicators must rest on a foundation or base capable of providing:

(1) Adequate support for the required liners.

(2) Sufficient resistance to pressure gradients above and below the liners to prevent failure of the liners due to settlement, compression, or uplift.

(3) Double liners shall be entirely above the seasonal water table.

(c) Surface impoundment liners are defined as a continuous layer of material, beneath and on the sides of a surface impoundment, which restricts the downward or lateral escape of pesticides, pesticide rinsate, and/or any leachate.

(1) The bottom and all sides of the surface impoundment shall be constructed with two liners separated by a barrier of sand or other porous material which is at least one (1) foot thick.

(2) Liners shall have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrologic forces), physical contact with pesticides and/or pesticide residues, rinsate and/or leachate to which they are exposed, stress of installation, and/or stress of daily operation.

(3) Liners shall have tight seams and joints and cannot contain tears, punctures, or blisters.

(4) Liners shall extend to the top of the dike required under (e) of this Section.

(d) A leachate detection system approved by the Department shall be placed between the liners required in (c) of this Section.

(1) The leachate detection system shall be placed above the lower liner at the lowest point of the excavation to assure that any seepage from the upper layer will percolate to this point.
(2) The leachate detection system shall be constructed to permit sampling from an accessible surface location.

(3) The leachate detection system shall be monitored weekly by the owner or operator; if a leak is detected, the impoundment shall be closed as as required in 35:30-17-98.

(e) Surface impoundments shall be surrounded by levees (dikes) that are designed, constructed, and maintained with sufficient structural integrity to prevent any failure of the levees (dikes).

(1) The base of the levee (dike), at land surface level, shall be of sufficient width to support the height of the levee (dike).

(2) The height of the levee (dike) shall be at least two feet (2') above the 100 year flood plain specified by the U.S. Geological Survey.

(f) Surface impoundments shall be of sufficient depth to permit a minimum free-board of at least two feet (2') below the top surface of the dike.

(g) Surface impoundments shall be equipped with a cover of translucent material and shall be constructed in compliance with all applicable local building codes. Surface impoundments shall be enclosed within a fence of sturdy material, at least six feet (6') in height, with a locked gate. At the option of the owner or operator, containment tanks and container storage may be placed in the same enclosure.

(h) Surface impoundments shall be located 100 feet within property lines, and at least 300 feet from personal dwellings and public facilities.

(i) Site plans shall be submitted for approval by the Board prior to any new construction of surface impoundments. These plans may be rudimentary; the purpose of the submission is to avoid unnecessary expense by the applicator.

(j) File final plans and specifications for approval by the Board for the construction of surface impoundments prior to the start of construction. The Board may consult with and seek the advice of Waste Management of the Oklahoma Department of Environmental Quality prior to approval.

35:30-17-97. Schedule for implementation of surface impoundments by commercial applicators

(a) Commercial applicators may continue to use existing surface impoundments

(1) Which, upon monitoring, are approved by the Board.

(2) Which meet all requirements of 35:30-17-96.

(b) Plans and specifications for modifications to existing surface impoundments shall be filed with, and approved by, the Board, prior to the start of construction. The Board may consult with and seek the advice of Waste Management of the Oklahoma Department of Environmental Quality prior to approval.

(c) Surface impoundments in operation at the effective date of this Subchapter which, upon monitoring, are not approved by the Board and/or which cannot be brought into compliance with the requirements of 35:30-17-96 shall be permanently closed no later than December 31, 1984. The contents of these surface impoundments shall be left undisturbed to evaporate; any solid residues remaining after evaporation of all liquids shall be removed and disposed of at a permitted controlled industrial waste disposal facility; and the excavation shall be filled under the supervision or with the prior approval of the Board.

35:30-17-98. Closing of a surface impoundment

Whenever violative levels of pesticides classified as a controlled industrial waste upon disposal are detected in any sample taken from a surface impoundment, whether the surface impoundment was in operation at the effective date of this subchapter or installed after the effective date of this subchapter, the surface impoundment may be immediately and permanently closed and, if closed, all contents shall be removed and disposed of at a permitted controlled industrial waste disposal facility. The financial responsibility of closing a surface impoundment belongs to the commercial applicator and/or property owner.

35:30-17-99. Controlled industrial pesticide waste generated by commercial applicator

Commercial applicators who generate controlled industrial pesticide waste and do not comply with this subchapter shall be subject to the rules governing controlled industrial pesticide waste under the jurisdiction of the Oklahoma Department of Environmental Quality.

PART 22. WOOD INFESTATION REPORTS

35:30-17-100. Compliance and violations

(a) Any wood infestation report (WIR) issued that is not in compliance with these rules shall be inaccurate, misleading, or fraudulent.

(b) Any person who issues a WIR that fails to comply with the provisions of these rules shall be in violation for failure to perform work according to minimum standards.

35:30-17-101. General requirements for WIRs

(a) "Wood destroying insect" means any insects, other than termites, which damage or destroy wood or other cellulose materials, including but not limited to carpenter ants,

carpenter bees, and powder post beetles. This term shall not include fungi which inhabit or destroy wood or other cellulose materials, health hazard molds, or stain fungi.

(b) WIRs shall be based on a thorough visual inspection and provide an accurate written disclosure of the presence or absence of termites and other wood destroying insects and the presence or absence of damage caused by termites or other wood destroying insects.

(c) Each WIR shall be made on a form prescribed by the Board.

(d) Copies of the WIR shall be provided to each of the following:

(1) The person purchasing the WIR.

(2) The files of the business responsible for the WIR.

35:30-17-102. Uses of the WIR

(a) A WIR used as a basis for recommendations for remedial treatment for termites or other wood destroying insects shall disclose the following:

(1) Presence of live termites or other wood destroying insects.

(2) Evidence of a previous infestation and no visible evidence of a treatment to address it.

(b) A WIR used as a basis for recommendation of preventive treatment for termites or other wood destroying insects shall identify the presence of substantial conditions conducive to infestation by termites or other wood destroying insects.

(c) The WIR shall include a statement indicating if the report is used as the basis for remedial or preventive treatment.

35:30-17-103. Qualifications

(a) Any person performing an inspection for a WIR shall be a certified applicator or a certified service technician.

(b) Any person issuing a WIR shall be a certified applicator, certified in structural pest control.

(c) The business responsible for the WIR shall have a current license in structural pest control.

35:30-17-104. Minimum information required for a WIR

(a) A WIR shall include, but not be limited to, the following:

(1) The address or location of the property inspected.

(2) The type of construction as determined by visual inspection, including, but not limited to, the following:

(A) Specify the type of stemwall, whether brick, concrete blocks, or any other type.

(B) Specify the type of floor, whether wood, concrete slab, or any other type.

(C) Specify any areas under the floor, whether a crawl space, basement, or any other area.

(D) Specify the type of exterior, whether wood, wood veneer, stucco, fiberboard, brick or stone, concrete block, aluminum or vinyl siding, or any other type, including combinations of types.

(E) Specify the type of piers, whether wood, concrete blocks, or any other type.

(3) A description of any inaccessible or visually obstructed areas.

(4) A description of any visible conditions conducive to termites or other wood destroying insects, including wood to ground contact, remaining form boards, excessive moisture, debris under or around the structure, visible wood flooring over slab, stucco siding, crawl space clearance resulting in insufficient separation between soil and wood, expansion joints or cracks in slabs, decks in contact with the structure, dense foliage in contact with the structure, wood piles in contact with the structure, or any other condition.

(5) A description of visible evidence of termite activity, including live termites, termite tubes or frass, evidence of previous infestation or treatment, or winged adults.

(6) A description of visible evidence of termite damage.

(7) A description of visible evidence of damage or activity by other wood destroying insects.

(8) If no visible evidence is present, the WIR shall so state.

(b) Each page of the WIR shall indicate the address or location of the property and the date of the inspection.

35:30-17-105. WIR inspections

(a) Areas to be inspected shall include, but not be limited to, the following:

(1) All structures on the property, unless specifically identified on the WIR.

(2) Areas around the plumbing in bathrooms, kitchens, laundry areas, or any other areas with plumbing.

(3) Window and door frames and sills.

(4) Baseboards, flooring, walls, and ceilings.

(5) Floored attics.

(6) Entrance steps and porches.

(7) Exteriors of slabs or foundations walls.

(8) Exteriors of all structures.

(9) Crawl spaces, including but not limited to, support piers or stiff legs, floor joists, sub floors, sill plates, or foundation walls.

(10) Fireplaces.

(b) Inaccessible areas are not required to be inspected for the WIR, and may include, but are not limited to, the following:

(1) Areas of attics with no flooring.

(2) Interiors of hollow walls, floors, or ceilings.

(3) Structural segments that cannot be accessed without defacing or tearing out lumber, masonry, or finished work, such as enclosed bay windows, buttresses, and other similar areas.

(4) Areas behind or beneath stoves, refrigerators, furniture, built in cabinets, insulation, or floor coverings.

(5) Areas where storage, locks, or other conditions render an inspection impracticable.

(6) Insufficient clearance for inspection of a crawl space.

(c) Any structures on the property not included in the inspection shall be identified on the WIR as not inspected.

(d) Any subsequent inspections shall be considered a follow up inspection.

(e) An ODAFF-1 Form shall be completed on all property transactions or when contesting a WIR issued on a property. An ODAFF-1 Form is not required for routine termite inspections not involving property transactions.

(f) Any routine report not intended for a property transaction shall contain a disclaimer stating it is not intended for a property transaction.

35:30-17-106. Posting of notice

(a) Upon completion of an inspection for a WIR, the inspector shall post a durable sign adjacent to the water heater or electric breaker box, beneath the kitchen sink, or in the bath trap that includes the name and address of the inspector, the date of inspection, the purpose of the inspection, and a statement indicating the posted notice shall not be removed under penalty of law.

(b) Any person removing or defacing a posted inspection notice shall be in violation of this section.

(c) The sign shall have a minimum size of two (2) inches by four (4) inches and shall be self sticking.

35:30-17-107. Forms

(a) Form ODAFF-1 [Oklahoma Official Termite and Wood Destroying Insect Report] shall be the official and required forms for WIRs and are available for inspection or copies at the offices of the Plant Industry and Consumer Services Division, Oklahoma Department of Agriculture, Food, and Forestry.

(b) The official forms may be preprinted by a business, however no alterations or additions to the form shall occur, other than the following:

(1) Name of the business.

(2) Business structural pest control license number.

(3) Business address and telephone number.

(c) Additional documents or addenda shall be listed and attached to the WIR.

(d) Each official form including more than one page, whether printed on the front and back or on separate pages, shall include the total number of pages in the WIR and the page number of each individual page, i.e. "Page One of Three."

APPENDIX A STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS

1. The following solutions of pesticides are regulated as controlled industrial waste when produced in amount of greater than 1000 kgs. (2200 lbs.) per month, or accumulated in quantities of greater than 1000 kgs. at any one time. Containers are considered as "empty", and need not be considered when they contain less than 1" of residue in a 55 gallon drum or larger; all of the product has been removed by practical, common measures, and the amount of residue is less than 3% of the container's volume.

* = RUP (Restricted Use Pesticide)

Pesticide	Concentration higher than:
Endrin	0.02 mgs./liter (parts per million)
Lindane	0.4 "/"
Methoxychlor	10.0 "/"
Toxaphene	0.5 "/"
2, 4-D	10.0 "/"
2, 4, 5-TP	1.0 "/"

(From 40 CFR 261, Subpart C)

2. The following pesticides, when in the form of a commercial product (not as mixed for application), are regulated as controlled industrial wastes when generated in quantities of greater than 1.0 kg. (2.2 lbs.) per month or accumulated in quantities of greater than 1.0 kg. at any one time. Also, 100 kgs. (220 lbs.) or more of empty containers or liners from containers are regulated unless they are triple-rinsed as specified elsewhere in these Rules. Solutions containing these pesticides are regulated when the amount of pesticide in the mix is greater than 1.0 kg. (NOTE: Some of these materials are not pesticides in their own right, but are used in the manufacture of pesticides).

* = RUP (Restricted Use Pesticide)

*Acrolein - Aqualin
*Acrylonitrile
*Aldicarb - Temik
Aldrin
*Allyl Alcohol
*Aluminum phosphide - Phostoxin
Arsenic acid
Arsenic pentoxide - MSMA/DSMA
Arsenic Trioxide - " " " "
*Azinphos Methyl - Guthion
Aziridine
Benzenamine, 4-chloro-

Benzenamine, 4-nitro-
1,2 Benzenediol
*Calcium cyanide - A Dust
*Carbofuran - Furadan
Carbonyl chloride - Phosgene
Chlordane
*Chlorfenvinphos
Chlorine Cyanide
Chloroacetaldehyde
Chloroaniline
Chlorophenylthiourea
*Chloropicrin - Tri-clor
*Clonitralide - Bayluscide
Cyanogen - Fumigants not widely used
Cyanogen chloride
*Cycloheximide - Acti-dione
*Demiton - Systox
Dichlorophenyl arsine
*Dicrotophos
Dieldrin
Diethylarsine
O,O-diethylphosphorodithioate
Diethyl-p-nitrophenyl phosphorothioate
O,O-Diethyl O-pyrazinyl phosphorothioate
Diisopropyl fluorophosphate
Dimethoate - DeFend
3,3dimethyl-l-(ethylthio)-2-butanone,O ((methylamino)carbonyl) oxime
O,O-dimethyl O-p-nitrophenyl phosphorothioate
4,6 dinitro-o-cyclohexylphenol
Dinoseb
*Dioxathion - Delnav
Diphosphoramide, octamethyl
*Disulfoton - Di-Syston
2,4 dithiobiuret
Dithiopyrophosphoric,tetraethyl ester
Endosulfan - Thiodan
Endothall
*Endrin
*EPN
*Ethoprop - Mocap
Ethylenimine
Famphur - warbex
*Fenamiphos - Nemacur
*Fensulfothion - Dasanit
*Fluoracetamide - 1081
Fluoroacetic acid, sodium salt
*Fonofos - Dyfonate
Heptachlor
Hexaethyl tetraphosphate
Hydrazinecarbothioamide
*Hydrocyanic acid - cyanide - A - Dust
Hydrogen cyanide - cyanide - A - Dust
Hydrogen phosphide - phostoxin
Isoxalone

*Methamidophos - Monitor
*Methidathion - Supracide
*Methomyl - Lannate
*Methyl bromide
2-methylaziridine
2-methyllactonitrile
*Methyl parathion
*Mevinphos - Phosdrin
*Monocrotophos - Azodrin
alpha-Naphthylthiourea - Anta
*Nicotine - Black Leaf 40
5-norbornene-2, 3-dimethanol
Octamethylpyrophosphoramide
7-oxabicyclo (2.2.1) heptane-2, 3-dicarboxylic acid
*Parathion
*Paraquat
Phenol, 2,4 cyclohesyl-4, 6-dinitro-
Phenol, 2,4-dinitro-
Phenyl dichloroarsine
Phenylmercuric acetate
*Phorate - Thimet
*Phosacetim
Phosgene
*Phosphamidon
Phosphorothioic acid, O,O-dimethyl O-(p-((di-methylamino)-sulfonyl)phenyl)ester
*Picloram - Grazon, Tordon
Potassium cyanide
Propanenitrile
Propanenitrile, 3-chloro-
Propanenitrile, 2-hydroxy-2-methyl-
Proparagyl alcohol
2-propenal - Aqualin
2-propen-1-o1
1,2-propylenimine
2-propyn-1-o1
4-pyridinamine
Pyridine and salts
*Sodium cyanide
*Sodium Fluoroacetate - 1080
*Strychnine and salts
*Sulfotep - Bladafume
Tetraethyldithiopyrophosphate
*Tetraethylpyrophosphate - Tepp
Tetraphosphoric acid, hexaethyl ester
Thallium sulfate - Ratox
Thiofanox - Decamox
Thioimidodicarbonic diamide
Thiosemicarbazide
Thiourea, (2-chlorophenyl)
Thiourea, 1, naphthalenyl-
Thiourea, phenyl
*Toxaphene
Trichloromethanethiol

Warfarin
Zinc cyanide
*Zinc Phosphide - ZP

(From 40 CFR 261, Subpart D)

3. With the exceptions noted above, all other pesticides are regulated when they are generated in quantities in excess of 1000 kgs. (2200 lbs.) per month, or accumulated in quantities in excess of 1000 kgs. at any one time. This applies to the pesticide as a commercial product, not as mixed for application. It would also apply when the amount of pesticide in the actual mix exceeded 1000 kgs.

   (From 40 CFR 261, Subpart D)

NOTE: A "commercial product" includes commercial chemical products, chemical intermediates, and off-specification commercial chemical products.

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