

<u>TITLE 4</u>	AGRICULTURE
<u>PART 1</u>	TEXAS DEPARTMENT OF AGRICULTURE
<u>CHAPTER 7</u>	PESTICIDES
<u>SUBCHAPTER H</u>	STRUCTURAL PEST CONTROL SERVICE
<u>DIVISION 2</u>	LICENSES
RULE §7.123	Insurance Requirements

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(a) Each business license applicant and certified noncommercial applicator license applicant must submit a certificate of insurance with proof of coverage on the form provided by the Department in an amount not less than ~~\$200,000~~\$500,000 for bodily injury and property damage coverage, with a minimum total annual aggregate of ~~\$300,000~~\$500,000 for all occurrences. The insurance policy must insure applicant for damage to persons and/or property occurring as a result of operations performed in the course of the business of structural pest control to premises or any other property under applicant's care, custody, or control. No new business license or certified noncommercial applicator license will be issued until insurance requirements are met. Policies must contain a cancellation provision for notification to the Department not less than thirty (30) days prior to cancellation.

(b) A licensee who operates as a wood treater who treats wood on commercial property owned by the licensee must submit a general liability insurance policy or certificate of coverage in an amount not less than ~~\$200,000~~\$500,000 for bodily injury and property damage coverage, with a minimum total annual aggregate of ~~\$300,000~~\$500,000 for all occurrences. No license will be issued until this insurance requirement is met. Policies must contain a cancellation provision for notification to the Department not less than thirty (30) days prior to cancellation.

(c) If payment of claims results in reducing the total aggregate of coverage below ~~\$300,000~~\$500,000, the insurance carrier must notify the Department and the licensee within ten (10) business days. The licensee must obtain additional coverage to meet the minimum requirements.

(d) Inactive certified applicators and technicians that do not perform structural pest control work for compensation or as a part of the duties of their employment are exempt from insurance requirements.

(e) Certified noncommercial applicators employed by governmental entities are exempt from insurance requirements.

(f) Only those insurance policies issued by insurers authorized by or registered with the Texas Department of Insurance will be considered to meet the requirements of this section.

(g) A structural pest control commercial business or noncommercial certified applicator must maintain general liability insurance with the required minimum coverage during the duration of the licensure period.

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RULE §7.124	Structural License Categories

Pest control licenses may be issued in one or more of the following categories.

(1) Pest Control--The inspection or control of pests in and around structures or pest animals which may invade homes, restaurants, stores, and other buildings, attacking their contents or furnishings or being a general nuisance, but do not normally attack the building itself. Examples of such pests are cockroaches, silverfish, ants, fleas, ticks, flies, mosquitoes, rats, mice, skunks, raccoons, opossums, etc.

(2) Termite and Wood Destroying Insect Control Treatment--The ~~inspection or~~ control of termites, beetles, or other wood destroying insects and wood preservation by means other than fumigation in buildings, including homes, warehouses, stores, docks, or any other structures. This category includes the treatment of termites in trees in and around structures ~~and an inspection completed for the purpose writing a treatment proposal. This category does not include inspection for the purpose of completing a Wood Destroying Insect Report.~~

~~(3) Termite and Wood Destroying Insect Control Inspection--The inspection of termites, beetles, or other wood destroying insects and wood preservation in buildings, including homes, warehouses, stores, docks, or any other structures. This category does not include the treatment of termites in structures or in trees in and around structures.~~

~~(34) Lawn and Ornamental--The inspection or control of pests or diseases of trees, shrubs, or other plantings in a park or in and around structures, business establishments, industrial parks, institutional buildings or streets.~~

~~(45) Weed Control--The inspection or control of weeds in right-of-ways, around homes, in a park or in and around structures, business establishments, industrial parks, institutional buildings, streets, and industrial environs.~~

~~(56) Structural Fumigation--The inspection or control of pests through fumigation of structures not primarily intended to contain food, feed, or grains.~~

~~(67) Commodity Fumigation--The inspection or control of pests through fumigation of processed commodities or structures normally used to contain commodities. This category does not include raw agricultural commodities.~~

~~(78) Wood Preservation--Pest control that involves the addition of preservatives to wood products to extend the life of the wood products by protecting them from damage caused by insects, fungi, and marine borers. Examples of wood products may~~

include cross-ties, poles, and posts. This includes the re-treatment of power-line poles with wood preservative pesticide including fumigants.

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RULE §7.125	Examinations

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(a) Examination required. Each individual not previously qualified by examination in the category or categories for which the license is requested must pass an appropriate examination. An application must be submitted to the Department specifying the examination category desired and pay the fee for each exam requested prior to the scheduled examination session.

(b) Examination categories. Examinations will be administered, maintained, and evaluated on a routine basis as determined by Department examination policy in the following categories:

- (1) Pest control;
- (2) Termite and Wood Destroying Insect Control Treatment;
- (3) Termite and Wood Destroying Insect Control Inspection;
- ~~(34)~~ Lawn and Ornamental;
- ~~(45)~~ Weed Control;
- ~~(56)~~ Structural Fumigation;
- ~~(67)~~ Commodity Fumigation; and
- ~~(78)~~ Wood Preservation.

(c) Military requests to expedite examinations. Military members, military veterans, and military spouses, as defined in Occupations Code, Chapter 55, may request their application for examination to be expedited by noting on their application to the Department. To qualify, all other licensing requirements must also be met.

(d) Examinations standards and requirements.

- (1) A fee shall be charged for each examination.
- (2) All examination fees are to be paid as prescribed by the Department.
- (3) Applicants must present photo identification issued by the Texas Department of Public Safety, or an equivalent from another state prior to taking an examination.
- (4) All examinations shall be maintained and administered by the Department or its designee.
- (5) The examination will be administered in written or electronic form and in general, cover the subject of the categories designated on the application.
- (6) Examinations shall only be administered in English.
- (7) No written materials, scratch paper, or electronic devices, other than calculators, may be brought into the examination room or used during the examination.

(8) Scratch paper will be provided, as necessary, and must be returned to the examination proctor at the end of each examination.

(9) Applicants who do not take a scheduled examination shall not receive a refund of the examination fee.

(10) Persons who make a minimum grade of 70% shall be issued a certified applicator license upon issuance of the grades.

(11) Individual exam scores are valid for only 12 months.

(e) Cheating is Prohibited.

(1) Cheating consists of giving or receiving unauthorized assistance to answer examination questions; bringing unauthorized materials into the exam room or using unauthorized materials to answer examination questions; using answers from another examinee; copying questions or answers to examination questions to take from the examination room; removing an examination booklet, answer sheet, or scratch paper from the examination room; or any other action which may undermine the integrity of the examination process.

(2) "Unauthorized assistance" means any verbal, written or electronic communication during the examination made for the purpose of receiving or providing answers to examination questions.

(3) Upon a final determination that an examinee has cheated, any current license issued by the Department is subject to suspension or revocation.

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<u>DIVISION 5</u>	TREATMENT STANDARDS
RULE §7.174	Subterranean Termite, Drywood Termite and Related Wood Destroying Insect Treatment Disclosure Documents

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(a) As part of each written estimate submitted for a subterranean termite, drywood termite, powder post beetle, wood boring beetle or related wood destroying insect (excluding carpenter ants) treatment to a customer, the pest control business proposing the treatment must present the prospective customer or designee with disclosure documents. Verbal estimates may be provided to customers to advise of a general range of treatment costs, but a written estimate must be provided before beginning a treatment. Written estimates for termite and related wood destroying insect treatments and treatment disclosure documents shall only be made by licensed technicians or certified applicators licensed in the termite and wood destroying insect control treatment category.

(b) Each subterranean termite, drywood termite, powder post beetle, wood boring beetle or related wood destroying insect (excluding carpenter ants) treatment disclosure document must include, but is not limited to:

(1) the business name, address, phone number, TPCL number, and the date the written estimate was submitted;

(2) the address or physical location of the structure to be treated;

(3) a diagram or blueprint or building plat and description of the structure or structures to be treated to include the following:

(A) numerical perimeter measurements of the entire structure as accurately as practical;

(B) areas of active or previous termite activity;

(C) areas to be treated;

(D) known wood destroying insect activity;

(E) areas of conditions conducive to infestation by wood destroying insects; and

(F) construction details and other information about construction relevant to the treatment proposal;

(4) a label for any pesticide recommended or used. If a physical barrier is used, the appropriate unit of measurement of the physical barrier must be recorded and a diagram describing the installation must be provided;

(5) the complete details of the warranty provided, if any;

(6) the signature of approval on the disclosure documents by a certified applicator or licensed technician in the termite category employed by the company making the proposal;

(7) the concentration of termiticide used or minimum number of bait stations to be installed;

(8) for subterranean termite post construction treatments, the following statements and definitions in at least 8-point type:

(A) A termite treatment may be a partial treatment or spot treatment using termiticide, approved physical barriers, or a baiting system. These types of treatments are defined as follows:

(i) Partial Treatments. This technique allows a wide variety of treatment strategies but is more involved than a spot treatment (see definition below). Ex.: treatment of some or all of the perimeter, bath traps, expansion joints, stress cracks, portions of framing, walls and bait locations.

(ii) Spot Treatments. Any treatment which concerns a limited, defined area less than ten (10) linear or square feet that is intended to protect a specific location or "spot." Often there are adjacent areas that are susceptible to termite infestation which are not treated.

(iii) Baiting Systems. This type of treatment may include interior and/or perimeter placement of monitoring or baiting systems along with routine inspection intervals. The baiting technique may include one (1) or more locations as prescribed by the product label and instructions.

(iv) Barriers. If a physical barrier is used, the square footage of the physical barrier must be recorded and a diagram describing the installation will be provided.

(B) The types of treatment defined may apply to construction types as follows:

(i) Pier and Beam. Treatment of the outer perimeter including porches, patios and treatment of the attached garage. In the crawl space, treatment would include any soil to structure contacts (piers and/or pipes).

(ii) Slab Construction. Treatment of the perimeter and all known slab penetrations as well as any known expansion joints or stress cracks.

(9) for all termite treatments the following statement in at least 8-point type: For all treatments there will be a diagram showing exactly what will be treated. Treatment specifications and warranties for those treatments may vary widely. Review the pesticide label provided to you for minimum treatment specification. If you have any questions, contact the pest control company or the Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711-2847. Phone (866) 918-4481;

(10) for any pre-construction treatment, the "Proper Pre-Construction Subterranean Termite Treatments - A Guide for Builders and Consumers" guide, must be provided to the contractor or purchaser of the pre-treatment service prior to the beginning of the treatment. The text and format of the termite pre-treatment disclosure document is available on the Structural Pest Control Service website at:



<http://www.TexasAgriculture.gov/spcs>, or by contacting the Texas Department of Agriculture at the address provided in paragraph (9) of this subsection;

(11) for drywood termite, powder post beetle, wood boring beetle, and other related wood destroying insect treatments the following statements and definitions in at least 8-point type: A drywood termite, powder post beetle, wood boring beetle, or other related wood destroying insect treatment may be a full treatment or spot treatment.

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These types of treatments are defined as follows:

(A) Full Treatment: A treatment to control 100% of the insect infestation by tarpaulin fumigation or appropriate sealing method. A full treatment by fumigation is designed to eliminate every insect colony. It should include the infested structure and all attached structures; or

(B) Spot Treatment: Any treatment less than a full treatment by tarpaulin fumigation. This treatment should be considered only when a drywood termite, powder post beetle, wood boring beetle or related insect infestation has a limited and defined area of infestation. Adjacent areas susceptible to dry wood termite, powder post beetle, wood boring beetle or related insect infestations are not treated. Because of the nature of wood destroying insects, these untreated areas may continue to harbor drywood termites, powder post beetle, wood boring beetle, and related insects throughout the structure without detection;

(12) a consumer information sheet described in §7.147 of this title, relating to Consumer Information Sheet; and

(13) The jurisdiction statement, "Licensed and regulated by: Texas Department of Agriculture, P.O. Box 12847, Austin, TX 78711-2847, Phone (866) 918-4481, Fax (888) 232-2567."

(c) For a re-treatment of a property for an existing customer, the pest control business must provide the following before conducting the re-treatment:

- (1) the label of the pesticide to be used;
- (2) a diagram or updated diagram of the structure showing areas to be treated; and
- (3) a consumer information sheet described in §7.147, of this title.

(d) The business license holder or, in the case of the certified noncommercial applicator, the applicator must keep and maintain correct and accurate copies of the Disclosure Documents for a period of two (2) years.

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RULE §7.175	Official Wood Destroying Insect Report Inspection Procedures

(a) Inspections for the purpose of issuing a WDIR must be conducted in a manner consistent with the procedures described in this section by a licensed certified applicator or technician in the termite and wood destroying insect control inspection category. The printed name and registration number or license number of any employees receiving training that are present for the inspection must be listed on the report. The purpose of the inspection is to provide a WDIR regarding the absence or presence of wood destroying insects and conditions conducive to wood destroying insect infestation. The inspection should provide the basis for recommendations for preventive or remedial actions, if necessary, to minimize economic losses. Only for purposes of a Real Estate Transaction Inspection Report, as described in §7.176 of this title, relating to Real Estate Transaction Inspection Reports, there must be visible evidence of active infestation in the structure or visible evidence of a previous infestation in the structure with no evidence of prior treatment to recommend a corrective treatment. The inspection must be conducted so as to ensure examination of all visible accessible areas in or on a structure in accordance with accepted procedures. While such an examination may reveal wood destroying insects, there are instances when concealed infestations and/or damage may not be discovered. Examinations of inaccessible or obstructed areas are not required.

(b) Inaccessible or obstructed areas recognized by the Department include, but are not limited to:

- (1) inaccessible attics or portion thereof;
- (2) the interior of hollow walls, spaces between a floor or porch deck and the ceiling or soffit below;
- (3) such structural segments as porte cocheres, enclosed bay windows, buttresses, and similar areas to which there is no access without defacing or tearing out lumber, masonry, or finished work;
- (4) areas behind or beneath stoves, refrigerators, furniture, built-in cabinets, insulation, floor coverings; and
- (5) areas where storage conditions or locks make inspection impracticable.

(c) The inspector must describe the structure(s) inspected and include the following:

- (1) the address or location;
- (2) a diagram showing:

- (A) approximate numerical perimeter measurements of the structure as accurately as practical (does not have to be to scale);
- (B) construction details needed for clarity of the report;
- (C) areas of current wood destroying insect activity;
- (D) areas of previous wood destroying insect activity; and
- (E) areas of conditions conducive to infestation by wood destroying insects;
- (3) inaccessible or obstructed areas, including, but not limited to the areas listed in subsection (b) of this section.
- (d) The inspection must include, but is not limited to, the following areas if accessible and unobstructed:
  - (1) plumbing, which includes:
    - (A) bathroom;
    - (B) kitchen;
    - (C) laundry; or
    - (D) other specified area, i.e., hot tub, etc.;
  - (2) window and door frames and sills;
  - (3) baseboards, flooring, walls, and ceilings;
  - (4) entrance steps and porches;
  - (5) exterior of slab or foundation wall;
  - (6) crawl spaces, which include:
    - (A) support piers (include stiff legs);
    - (B) floor joist;
    - (C) sub floors;
    - (D) sill plates; and
    - (E) foundation wall.
  - (7) fireplace; and
  - (8) weep holes.
- (e) Visible evidence of the following conditions must be reported:
  - (1) wood destroying insects or signs of current active infestation;
  - (2) termite tubes or frass;
  - (3) exit holes or frass from other wood destroying insects;
  - (4) evidence of previous treatment or infestation;
  - (5) conditions conducive to wood destroying insect infestation, including but not limited to:
    - (A) a structure with wood to ground contact;
    - (B) formboards left in place;
    - (C) excessive moisture;
    - (D) wood debris under or around structure;
    - (E) footing too low or soil line too high;
    - (F) insufficient clearance in crawl space;
    - (G) expansion joints or cracks in slab;

- (H) decks; or
- (6) infestation of other wood destroying insects.