

(4) The commissioner may participate in issuing a public communication concerning the determination. Each public communication shall be issued in accordance with a cooperative agreement with the appropriate governmental agency entered into under the provisions of this Part.

Added by Acts 1988, No. 349, §1.

§3309. Enforcement

A. The commissioner may seek and obtain injunctive relief to restrain and prevent violations of orders issued under the provisions of this Part or in accordance with the rules and regulations adopted under the provisions of this Part.

B. The commissioner may impose civil penalties for violations of the orders issued under the provisions of this Part or in accordance with the rules or regulations adopted under the provisions of this Part. The civil penalties shall not exceed twenty-five thousand dollars per offense. Each day on which a violation occurs shall be considered a separate offense. Civil penalties shall be imposed only on the basis of an adjudication of violation pursuant to an adjudicatory hearing held in accordance with the provisions of Section 3214 of this Chapter.

Added by Acts 1988, No. 349, §1.

§3310. Violations

No person shall violate any provision of this Part or of any rule or regulation adopted under the provisions of this Part.

Added by Acts 1988, No. 349, §1.

PART VII. STRUCTURAL PEST CONTROL

§3361. Short title

The provisions of this Part shall be known and may be cited as the Structural Pest Control Law.

Acts 1984, No. 800, §1, eff. July 13, 1984.

§3362. Definitions

As used in this Part, the following terms shall have the following meanings ascribed to them:

- (1) "Avicide" means any pesticide, other than a fumigant, which is used for the control of pest birds.
- (2) "Commission" means the Structural Pest Control Commission.
- (3) "Commissioner" means the commissioner of agriculture and forestry.
- (4) "EPA" means the United States Environmental Protection Agency.
- (5) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.
- (6) "Fumigant" means any pesticide which either by itself or in combination with any other substance:
 - (a) Emits or liberates gas, fumes, or vapors which will destroy pests.
 - (b) Is usually lethal, poisonous, or noxious.
 - (c) May be dangerous to human life.
 - (d) Emits or releases any chilled or heated gas or atmosphere.
- (7) "Insecticide" means any pesticide, other than a fumigant, which is used for the control of insects and similar pests.

(8) "Person" means any individual, corporation, partnership, association, or other legal entity.

(9) "Pesticide" means any substance or combination of substances which is a pesticide under the Louisiana Pesticide Law, R.S. 3:3201 et seq.

(10) "Repellant" means any pesticide, other than a fumigant, which is noxious to and has the property of repelling pests.

(11) "Restricted use pesticide" means any pesticide which is classified for restricted use by the EPA under FIFRA or by the commissioner under the Louisiana Pesticide Law, R.S. 3:3201 et seq.

(12) "Rodent" means any of several mammals such as rats and mice commonly associated with man-made structures and characterized by constantly growing incisors.

(13) "Rodent control" means the use of a rodenticide to control rodents.

(14) "Rodenticide" means any pesticide, other than a fumigant, which is used for the control of rodents.

(15) "Structural pest" means any member of any species of wood-destroying insects, vermin, rodents, vertebrates, and pest birds which attack and damage wood.

(16) "Structural pest control" means any procedure intended to effect the prevention, regulation, extermination, or eradication of structural pests in household, commercial, and vacant structures, including adjacent outside areas and the contents of such structures. The term includes advertising or soliciting structural pest control work; making inspection; identifying infestations; supervision of work; issuance of wood-infestation reports; application or other use of pesticides; fumigation, including vacuum fumigation of products and fumigation of railroad cars, trucks, ships, airplanes, docks, warehouses, common carriers, and the contents thereof; and the use of any other substance, mechanical device, or structural modification under whatever name known for the purpose of preventing, prescribing remedies, controlling, or eradicating structural pests. The term does not, however, include any procedure for the control of agricultural pests.

(17) "Wood-destroying insect" means any and all species of insects which attack and damage wood.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1991, No. 103, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§3363. Structural Pest Control Commission

A. The Structural Pest Control Commission is hereby created within the Department of Agriculture and Forestry. The commission shall be domiciled in Baton Rouge.

B. The commission shall be composed of the following five members:

(1) Two persons who are licensed structural pest control operators appointed by the commissioner from a list of four licensed pest control operators submitted by the Louisiana Pest Control Association. Each appointee shall be a resident of this state and shall be actively engaged in structural pest control work. The two appointments shall not be associated with the same business entity.

(2) One member of the faculty of the Entomology Department at Louisiana State University who shall be appointed by the commissioner.

(3) The commissioner and the assistant commissioner for agricultural and environmental sciences of the Louisiana Department of Agriculture and Forestry, or their designees, who shall serve ex officio and shall have all of the same rights and responsibilities as the appointed members.

C. The appointed members shall serve at the pleasure of the appointing commissioner for terms concurrent with that of the appointing commissioner. Appointed members shall serve until their successors are appointed and qualified. Vacancies in the terms of the appointed members shall be filled in the same manner as the original appointment.

D. Three members shall constitute a quorum for the transaction of business. Except as otherwise specifically provided in R.S. 3:3372(B), all official actions of the commission shall require the affirmative vote of three members.

E. The appointed members shall be subject to removal for nonperformance of duty or malfeasance in office.

F. Members of the commission shall not receive any salary for their duties as members. The appointed members may receive a per diem for each day spent in actual attendance of meetings of the commission. The amount of the per diem shall be fixed by the commission in an amount not to exceed forty dollars. The appointed members may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the commission in an amount not to exceed the mileage rate for state employees.

G. The commission shall meet quarterly and may meet on the call of the chairman or any two members. The commission shall not meet more than twelve times in any calendar year.

H. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1997, No. 1032, §1; Acts 2008, No. 920, §1, eff. July 14, 2008.

§3364. Officers and employees

A. The commissioner or his designee shall serve as chairman of the commission. The members shall elect such other officers as they deem necessary.

B. The commission shall employ a director and an assistant director who shall be appointed by the commission subject to the approval of the commissioner. The director and the assistant director shall be in the unclassified service. The commissioner may employ such other personnel of the commission as he deems appropriate. All employees of the commission shall be under the direction and supervision of the commissioner.

Acts 1984, No. 800, §1, eff. July 13, 1984.

§3365. Administration

A. The commission shall administer the provisions of this Part and the rules and regulations adopted under the provisions of this Part.

B. The commission shall keep a record of all hearings held and all determinations made by the commission.

C. The employees of the commission shall have access to any premises where there is reason to believe that structural pest control work is being conducted for the purpose of sampling pesticides and inspecting and observing the application of any pesticide. This right of access shall be exercised only during reasonable hours and only upon presentation of proper credentials.

D. The commission shall develop and administer all examinations required under this Part.

E.(1) The commission may issue subpoenas to compel the attendance of witnesses or the production of documents and records anywhere in the state.

(2) The sheriff of the parish in which the witness or the documents or records are located shall serve the subpoenas.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 2012, No. 147, §1, eff. May 14, 2012.

§3366. Administrative rules

A. The commission shall adopt rules and regulations for the implementation of this Part. The rules and regulations shall include, but shall not be limited to:

- (1) Rules and regulations to protect the interests, health, safety, and welfare of the public.
- (2) Rules and regulations governing the different phases of the structural pest control operator's license.
- (3) Rules and regulations to provide minimum specifications for the application of pesticides for the control of specific structural pests.
- (4) Rules and regulations governing the transportation and handling of pesticides and pesticide applying equipment.
- (5) Rules and regulations governing the treatment of pesticide residues and the handling and disposal of solid wastes generated in the course of structural pest control work.
- (6) Any other rules and regulations required for the implementation and administration of this Part.

B. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act and the following special provisions:

- (1) The commission shall conduct a public hearing on all proposed rules and regulations.
- (2) The commission shall notify each licensee in writing at his or her last known address at least seven days prior to any public hearing. Such notification may be sent by electronic mail.
- (3) *Repealed by Acts 2010, No. 495, §2, June 24, 2010.*

C. Persons engaged in structural pest control work shall be governed exclusively by the rules and regulations adopted by the commission. If the rules and regulations adopted by the commission conflict with any rules or regulations adopted by any other agency, including but not limited to the Department of Natural Resources, the Department of Environmental Quality, or the Department of Public Safety and Corrections the rules and regulations adopted by the commission shall prevail.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 2010, No. 495, §§ 1,2, eff. June 24, 2010.

§3367. Place of business permit

A. No person shall own or operate a business engaged in structural pest control work unless that person has a place of business permit for each location at which the person conducts business.

B. Each place of business permit shall expire annually on the last day of June.

C. Prior to being issued a place of business permit, each applicant shall file with the commission the following documents as evidence of financial responsibility:

(1) A certificate of insurance written by an admitted or nonadmitted insurance company which has complied with the requirements of the Insurance Code, covering the applicant's public liability for not less than two hundred and fifty thousand dollars per accident and not less than one hundred thousand dollars property damage. The certificate of insurance shall provide for ten days written notice to the commission prior to cancellation.

(2) A surety or fidelity bond issued by a bonding, surety, or insurance company authorized to do business in this state conditioned upon the faithful performance of all duties and obligations to clients and customers of the business and compliance with this Part and the rules and regulations adopted under the provisions of this Part. The bond shall be in the amount of two thousand dollars and of tenor and solvency acceptable to the commission and shall provide for ten days written notice to the commission prior to cancellation. A certified copy of the bond shall be received as evidence in any court in lieu of the original.

D. Each applicant for a place of business permit shall be a licensed structural pest control operator or shall employ at least one full-time licensed pest control operator. No place of business permit shall be issued by the commission unless there is a licensee employed on a full-time basis at the place of business for which the permit is sought.

E. If a person who holds a place of business permit no longer has a license or no longer employs a person who has a license on a full-time basis, the person who holds the place of business permit shall have ninety days or until the next meeting of the commission, whichever is longer, to obtain a license or to employ a person who has a license on a full-time basis.

F. Each person who holds a place of business permit shall maintain accurate records for at least three years covering the possession, use, and disposition of restricted use pesticides and of all recommendations relative to the application of restricted use pesticides.

G. Place of business permits are not transferable.

Acts 1984, No. 800, §1, eff. July 13, 1984; HCR 259, 1985 R.S.; Acts 1986, No. 300, §1; Acts 2012, No. 147, §1, eff. May 14, 2012.

NOTE: *See Acts 1984, No. 800, §5.*

§3368. Structural pest control operator's license

A. Except as otherwise provided in R.S. 3:3369, no person shall apply pesticides in connection with structural pest control work unless that person has a structural pest control operator's license.

B. A structural pest control operator's license shall be issued only after the applicant has satisfactorily passed a written examination. The examination shall include the general standards examination required by the EPA and a separate examination for the category in which the applicant desires to be licensed.

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

(1) A degree from an accredited four-year college or university with a major in entomology.

(2) A degree from an accredited four-year college or university with at least twelve semester hours of coursework in entomology and at least one year of experience as a registered technician under the supervision of a licensee in the license category for which the applicant desires to take the examination.

(3) Four years of experience as a registered technician under the supervision of a licensee in the license phase for which the applicant desires to take the examination.

(4) Four years of experience as a technician under the supervision of a structural pest control operator in another state in the license category for which the licensee desires to take the examination. Experience with an out of state structural pest control operator shall be substantiated by evidence acceptable to the commission.

D. Each applicant for examination shall submit a written application which shall contain such information as the commission by rule may require and which shall be accompanied by the examination fee and by proof of experience and education acceptable to the commission.

E. The examination shall be administered at the domicile of the commission within forty-five days after the application for examination is received by the commission.

F. The examination shall test the applicant's practical and scientific knowledge of structural pest control including the ability to recognize and control hazardous conditions which might have an adverse effect on human health and safety.

G. Persons who successfully complete the examination may apply for a structural pest control operator's license. The application shall be in writing, shall contain such information as the commission by rule may require, and shall be accompanied by the license fee.

H. A structural pest control operator's license shall not be issued unless the applicant has applied for and is eligible to receive a place of business permit or submits evidence acceptable to the commission that the applicant will be employed by a person who holds a place of business permit.

I. The commission shall issue a license and a commercial applicator's certification card to each person who successfully completes the examination and meets the other requirements of this Section.

J. Each licensee shall participate in continuing educational programs as a condition of obtaining recertification as a certified commercial applicator. The commission by rule shall establish requirements for continuing education for licensees, including the substantive content of the course and the amount of time which must be spent attending the course.

K. Structural pest control licenses are not transferable.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 149, §1.

§3369. Registered technicians

A. Persons who hold a place of business permit may employ unlicensed technicians to apply pesticides in connection with structural pest control work in accordance with the provisions of this Section.

B. The commission by rule may provide for different categories of registration of technicians including categories for technicians who apply pesticides and for technicians who prescribe treatment.

C. Each technician shall be registered with the commission within thirty days of the date he is employed. The application for registration shall contain the technician's name, residence address, date of birth, the employer's name and business address, the name of the licensed structural pest control operator who will provide direct supervision for the technician, and such other information as the commission by rule may require.

D. Each registered technician shall be under the direct supervision of a licensed structural pest control operator. The licensed structural pest control operator shall give instruction and direction to the registered technician and shall be fully responsible for the actions of the registered technicians who are under his direct supervision. The commission by rule may provide additional requirements for direct supervision.

E. Each registered technician shall carry his registration card on his person while performing structural pest control work and shall display his registration card upon the request of any person for whom structural pest control work is being performed by any employee of the commission.

F. Each person who employs a registered technician shall notify the commission within ten days after the termination of the employment of the registered technician or after any change in the assignment of the registered technician to a licensed structural pest control operator.

G. The registration of a technician shall be valid only while the technician remains employed by the person who registered the technician with the commission.

H. Each registered technician shall successfully complete an examination. Each registered technician shall take the examination within ninety days of the date he was employed. If the registered technician fails to pass the examination within ninety days after he is employed, he shall be allowed to work as a registered technician for another ninety days during which time he shall take the examination again. If the registered technician fails to pass the examination within one hundred eighty days after he is employed, he shall not be allowed to work as a registered technician until he has passed the examination.

I. The terms of each employment agreement between each licensed structural pest control operator or person who holds a place of business permit (employer) and each registered technician (employee) who is employed by that employer shall meet each of the requirements set forth in this Subsection. Any employment agreement between an employer and an employee which does not meet the requirements of this Subsection is prohibited. The requirements are:

(1) Each employee shall remit to each employer all funds collected in connection with structural pest control work performed by that employee.

(2) Each employer shall pay each employee in accordance with the terms of the employment agreement between them.

(3) Each employer shall withhold from the pay of each employee the amounts which employers are required to withhold from employees by applicable state and federal law.

(4) Each employer shall keep complete records of all structural pest control work performed by each employee. These records shall be maintained for at least two years. These records shall include the address of the structure treated, the name of the person for whom the treatment was performed, the brand name of the pesticide applied, and all other information required by the commission by rule.

J. Persons who fail to pass the examination shall not be allowed to retake the examination for thirty days.

K. Each registered technician shall participate in continuing educational programs as a condition of maintaining his or her status as a registered technician. The commission by rule, approved by the commissioner of agriculture and forestry and in accordance with the Administrative Procedure Act, shall establish requirements for continuing education for technicians, including the substantive content of the course and the amount of time which must be spent attending the course.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 210, §§1 and 2; Acts 1988, No. 287, §1.

§3370. Written contracts

A.(1) Each person who holds a place of business permit who treats any property for subterranean termites, dry wood termites, powder post beetles, or old house borers shall enter into a written contract with the owner of the property. This contract shall be referred to as a "standard contract". The contract shall be in a form acceptable to the commission, shall guarantee that the property was treated in accordance with the minimum specifications adopted by the commission for the type of pest being treated, and shall guarantee that if the property becomes reinfested with the type of pest for which treatment was made within one year of the date of treatment, the property will be retreated.

(2) Any currently effective standard contract and all terms and conditions contained therein shall be transferable to a subsequent owner of the property covered by such contract.

(3) Each person who holds a place of business permit shall issue a copy of any standard contract currently in effect to the owner of the treated property or to an agent of the property owner within thirty days of receiving a written request.

B. Each person who holds a place of business permit shall report to the commission on or before the tenth day of each month each contract described in Subsection A of this Section which was completed during the previous month.

C. Each person who holds a place of business permit and who issues a report on the presence of wood destroying insects, which is customarily referred to as a "wood destroying insect report", shall issue the report in writing and in a form which has been approved by the commission.

D. Each person who holds a place of business permit shall report to the commission on or before the tenth day of each month each report described in Subsection C of this Section which was issued during the previous month. The commission by rule may require each person who files a report to attach a copy of each wood destroying insect report.

E. All information and all documents transmitted to the commission in accordance with the requirements of this Section shall be confidential and shall be exempt from the Public Records Law, R.S. 44:1 et seq. The commission may discard or destroy all documents received under the provisions of this Section after ninety days.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 148, §1; Acts 2001, No. 551, §1.

NOTE: See Acts 1984, No. 800, §5.

NOTE: See Acts 1988, No. 148, §§2, 3, & 4.

§3371. Violations

A. Violations of this Part shall include but shall not be limited to the following:

- (1) Engaging in any form of structural pest control work without first obtaining the proper permit, license, or registration.
- (2) Advertising, soliciting, or otherwise attempting to obtain in any form structural pest control work without first obtaining the proper permit, license, or registration.
- (3) Any application of any pesticide in violation of the label, the provisions of this Part, or the rules and regulations adopted under the provisions of this Part.
- (4) Failure by a person who holds a place of business permit to maintain the bond and insurance required by this Part.
- (5) Knowingly permitting any person under direct supervision to violate any provision of this Part or any rule or regulation adopted under the provisions of this Part.
- (6) Intentional misrepresentation of any matter involved in or related to structural pest control work.
- (7) Failure to enter into or report any contract required by this Part.
- (8) Knowingly making any false or misleading statement in a wood-infestation report.
- (9) Gross negligence in conducting an inspection or failing to make an inspection prior to issuing a wood-infestation report.
- (10) Failure to appear at an adjudicatory hearing after receiving proper notice.
- (11) A licensee transacting business without complying with the continuing education requirements adopted by the commission.
- (12) Failure of a registered technician to comply with the continuing education requirements adopted by the commission.
- (13) Any failure to timely pay any civil penalty imposed by the commission or any failure to timely pay any fee collected by the commission.
- (14) Any violation of any provision of this Part or of any rule or regulation adopted under the provisions of this Part.

B. Each day on which a violation occurs and each location at which a violation occurs shall be considered a separate offense.

C. Violations shall be classified as minor, moderate, or major in accordance with the following provisions:

- (1) A minor violation is any act which does not result in danger to human health and safety or damage to personal property including but not limited to clerical errors or failure to timely file required reports.
- (2) A moderate violation is any act of negligence in meeting the guarantees of an agreement for structural pest control work including but not limited to failure to apply pesticides in accordance with the label or failure to comply with minimum specifications adopted by the commission. A violation which is not a minor violation or a major violation shall be a moderate violation.
- (3) A major violation is:
 - (a) Any act which may adversely affect human health and safety;
 - (b) Any act performed without having the proper permit, license, or registration;
 - (c) Any intentional misrepresentation of any matter involved in or related to structural pest control work;
 - (d) Any false or misleading statement made knowingly in a wood-infestation report; or

(e) Any failure to timely pay any civil penalty imposed by the commission, or any failure to timely pay any fee collected by the commission.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 149, §1; Acts 1988, No. 211, §1; Acts 1988, No. 287, §1.

§3372. Enforcement

A. The commission may impose civil penalties for the commission of any act which is a violation under R.S. 3:3371. The schedule for civil penalties is as follows:

- (1) Minor - not more than two hundred dollars.
- (2) Moderate - not more than five hundred dollars.
- (3) Major - not more than five thousand dollars.

B. The commission may suspend or revoke any permit, license, or registration for the commission of any act which is a major violation or for multiple acts which are minor or moderate violations. No permit, license, or registration shall be suspended or revoked without the affirmative vote of each of the five members of the commission.

C. The commission may place any person who holds a permit, license, or registration on probation for any violation under R.S. 3:3371.

D. The commission in its discretion may combine the penalties of civil penalties, probation, suspension, or revocation, subject to the other provisions of this Section.

E. Civil penalties may be assessed, probation may be imposed, and permits, licenses, and registrations may be suspended or revoked only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act and the following special provisions:

- (1) The commission shall appoint a hearing officer.
- (2) The commission shall notify the alleged violator by certified mail at least thirty days prior to the date the hearing is held.
- (3) The notice shall contain the following information:
 - (a) A statement of the alleged violation.
 - (b) The specific Section of this Part or the specific rule or regulation alleged to have been violated.
 - (c) The date, time, and place where the hearing will be held.
 - (d) A statement of the rights which will be accorded to the licensee or registered employee at the hearing.
 - (e) A statement as to the possible penalties which may be imposed upon a finding by the commission at the hearing that the alleged violator committed the alleged violation.

(4) The alleged violator shall have the right to representation by legal counsel and the right to examine and cross-examine witnesses as in civil cases. The alleged violator shall have the right to compel the attendance of witnesses and the production of evidence upon depositing with the commission the fees required for issuing subpoenas and subpoenas duces tecum in civil cases.

F. The commission may institute civil proceedings in the district court for the parish in which the violation occurred to enforce its rulings.

G. The commission may institute civil proceedings seeking injunctive relief to restrain and prevent violations of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part in the district court for the parish in which the violation occurred.

H. The provisions of R.S. 3:3205 shall apply to this Part. The commissioner or his duly authorized representatives acting at his direction shall administer the provisions of R.S. 3:3205 as they apply to violations of this Part or to violations of the rules and regulations adopted under the provisions of this Part.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 215, §1.

§3373. Criminal penalties

A. No person shall engage in any aspect of structural pest control work without first obtaining the proper permit, license, or registration.

B. Whoever violates the provisions of this Section shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

Acts 1984, No. 800, §1, eff. July 13, 1984.

§3374. Fees

A. Each person who holds a place of business permit shall pay the fees established in this Subsection for standard contracts and wood destroying insect reports. Fees shall be paid at the expense of the person who holds the place of business permit and shall be paid at the time the person files the report required by R.S. 3:3370(B). The fee for each standard contract reported shall be established by the commission by rule at not more than sixteen dollars. The fee for each wood destroying insect report reported shall be established by the commission by rule at not more than sixteen dollars. When the amount of the fees collected pursuant to this Section in any fiscal year equals the amount appropriated for the commission and its programs for that fiscal year, the commission shall allocate the fees collected for standard contracts and wood destroying insect reports for the remainder of that fiscal year to the Louisiana State University Experiment Station for the purpose of structural pest control research.

B. The other fees charged under this Part shall be as follows:

(1) The annual permit fee for a place of business at which two or fewer licensed structural pest control operators or registered technicians are employed shall be established by the commission by rule at not less than one hundred twenty-five dollars and not more than one hundred fifty dollars.

(2) The annual permit fee for a place of business at which three or more licensed structural pest control operators or registered technicians are employed shall be established by the commission by rule at not less than one hundred seventy-five dollars and not more than two hundred dollars.

(3) The fee for the examination for the structural pest control operator's license shall be fifty dollars.

(4) The fee for the examination for the technician's registration shall be twenty-five dollars.

(5) The fees for the registration of technicians shall be as follows:

(a) The fee for the administrative processing of the registration certificate shall be established by the commission by rule at not less than twenty dollars and not more than twenty-five dollars. This fee shall be paid at the time of initial registration and shall be for the time period beginning on the date of registration and ending on the following June thirtieth.

(b) The annual registration fee for registered technicians shall be established by the commission by rule at not less than twenty dollars and not more than twenty-five dollars.

(c) The administrative fee for processing the change of registration each time a registered technician is employed by a different pest control operator shall be ten dollars.

(6) The annual license fee for licensed pest control operators shall be established by the commission by rule at not less than five dollars and not more than ten dollars for each category in which the pest control operator is licensed.

(7) The commission by rule shall establish fees for chemical or other analyses which are performed at the request of any person other than the commission or the Department of Agriculture and Forestry. The fees shall be based on the cost of obtaining the sample, obtaining the analysis, and processing the request for the analysis.

C. Except as otherwise specifically provided herein, all fees established by the commission shall be based on the cost of administering the provisions of this Part.

D. All annual fees collected by the commission shall be due and payable on the first day of July of each year.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 148, §1; Acts 1997, No. 1032, §1; Acts 2015, No. 201, §1.

NOTE: See Acts 1988, No. 148, §§2, 3, & 4.

§3375. Disposition of fees

A.(1) Subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, all money received by the commission from fees or other self-generated sources shall be deposited immediately upon receipt in the state treasury and shall be credited to the Bond Security and Redemption Fund.

(2) After a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer, prior to placing the remaining funds in the State General Fund, shall pay an amount equal to the total amount of funds paid into the state treasury by the commission into a special fund which is hereby created in the state treasury and designated as the Structural Pest Control Commission Fund. The monies in the Structural Pest Control Commission Fund shall be used solely for the programs and purposes of the commission and only in the amounts appropriated each year by the legislature.

B. Out of the monies appropriated each year to the commission, the commission shall allocate at least thirty thousand dollars to the Louisiana State University Experiment Station for research. The allocation shall be made at least biannually. The commission shall appoint a committee composed of the commissioner or his designee, the chancellor of the Louisiana State University Agricultural Center or his designee, the director of the Louisiana State University Experiment Station or his designee, the president of the Louisiana Structural Pest Control Association, the executive director of the Louisiana Pest Control Association, and three licensed pest control operators. This committee shall make recommendations to the commission on what research is needed. Committee members shall be appointed for one year. The commission shall determine the areas in which the research shall be conducted and shall review research progress at an annual meeting. At the end of each fiscal year, all unexpended funds which were allocated under the provisions of this Section shall revert to the Structural Pest Control Commission Fund.

Acts 1984, No. 800, §1, eff. July 13, 1984; Acts 1988, No. 148, §1; Acts 1991, No. 95, §1, eff. Jan. 13, 1992; Acts 1997, No. 1032, §1.

NOTE: See Acts 1988, No. 148, §§2, 3, & 4.

NOTE: See Acts 1991, No. 95, §2.

§3376. Exemptions

The provisions of this Part and the rules and regulations adopted under the provisions of this Part shall not apply to the following:

(1) Persons personally performing structural pest control work on property which they own, lease, or rent.

(2) Persons engaged in the manufacture of pesticides.

(3) Persons engaged in the sale or distribution of pesticides. Notwithstanding this exemption, no person who sells pesticides at retail shall demonstrate pesticides in any manner upon the premises of any customer or potential customer, make any recommendation relative to the use of the pesticides, or offer any services related to structural pest control work unless that person has the proper permit, license, or registration.

Acts 1984, No. 800, §1, eff. July 13, 1984.

§3377. Savings clause

The provisions of this Part shall not affect the validity of licenses issued prior to the date this Part becomes effective in 1984.

Acts 1984, No. 800, §1, eff. July 13, 1984.

PART VIII. SCHOOL PESTICIDE SAFETY

§3381. Policy; purpose

The legislature finds that the exposure of school children to pesticides poses known and, as of yet, unknown risks to their health and well-being. Providing controls on the application of these pesticides will help to ensure the safety and well-being of children in the state.

Acts 1993, No. 729, §1.

§3382. Definitions

As used in this Part, the following terms shall have the following meanings ascribed to them:

(1) "Least toxic method" means an integral part of an integrated pest management plan and is a combination of common sense practices that use current, comprehensive information on the life cycles of pests and their interactions with the environment, in combination with available pest control methods used to manage pest damage by the most economical means with the least possible hazard to people, property, and the environment.

(2) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism in living humans or other living animals, which the commissioner declares to be a pest, other than mosquitos.

(3) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest and any substance or combination of substances intended for use as a plant regulator, defoliant, desiccant, or any substance the commissioner of agriculture and forestry or his duly authorized representative acting at his direction determines to be a pesticide.

(4) "School" means any public or private day or residential school that provides pre-kindergarten, elementary, or secondary education.

Acts 1993, No. 729, §1; Acts 1995, No. 237, §1; Acts 2015, No. 311, §1.

§3383. Record of pesticides used to control pests

A. Each school shall keep a written record of restricted use pesticides used to control pests. After the application of a restricted use pesticide, an entry shall be made in the record which lists:

- (1) The name of the pesticide applied.
- (2) The quantity of pesticide applied.
- (3) The pest which the pesticide is intended to control.
- (4) The date, time, and location on the school grounds where the pesticide was applied.

(5) The name of the person or persons who applied the pesticide.

B. The records required by Subsection A of this Section shall be kept for at least three years in the business office of each school and made available for public inspection by any person during regular school hours.

Acts 1993, No. 729, §1; Acts 2012, No. 147, §1, eff. May 14, 2012.

§3384. Requirement that eight hours precede the exposure of children to restricted use pesticides

A restricted use pesticide shall be applied to a school building or on school grounds only during periods in which students are not expected to be present for normal academic instruction or organized extracurricular activity for at least eight hours after the application.

Acts 1993, No. 729, §1.

§3385. Least toxic method of pest control encouraged

Schools are encouraged to use the least toxic method of pest control. The least toxic method of pest control may include pest control methods other than the application of pesticides.

Acts 1993, No. 729, §1.

§3386. Application of pesticides by certified commercial applicator

A. No person shall apply or supervise the application of any herbicide, rodenticide, insecticide, or restricted use pesticide, on a non-fee basis for grass and weed control, and rodent and general pest control in, on, or around structures or grounds of schools that provide education to pre-kindergarten through twelfth grade classes, unless that person is a certified commercial applicator or is under the supervision of a certified commercial applicator as provided in R.S. 3:3242 and the rules and regulations adopted thereunder. Such certified commercial applicator shall be trained in integrated pest management that includes but is not limited to pest prevention, least toxic methods of pest control, and applying pesticides judiciously. Training material shall include but not be limited to the guidelines in the EPA publication "Pest Control in the School Environment: Adopting Integrated Pest Management".

B. Pesticide applications for wood destroying insects shall be applied by a structural pest control operator licensed under the provisions of R.S. 3:3368.

Acts 1995, No. 237, §1; Acts 2015, No. 311, §1.

§3387. Employment of certified commercial applicators by school systems

A. School systems having ten or more schools shall employ at least two certified commercial applicators.

B. School systems having less than ten schools shall employ at least one certified commercial applicator.

Acts 1995, No. 237, §1.

§3388. Annual integrated pest management plan

A.(1) The governing authority of each school, including but not limited to superintendents, headmasters, school boards, boards of directors, chief executive officers, or principals, shall prepare and submit, for each school under its authority, an annual integrated pest management plan that applies integrated pest management strategies of pest prevention methods and strongly recommends the least toxic methods of control for grass and weed control, and rodent and general pest control in, on, or around school structures and grounds.

(2) Each city, parish, or other local public school board shall submit a single, comprehensive integrated pest management plan for all schools under its jurisdiction.

B. The annual integrated pest management plan shall include but shall not be limited to the following:

(1) The school name, mailing address, physical address, telephone number, and contact person.

(2) If a company or specific applicator enters into a contract to apply any herbicide, rodenticide, insecticide, or restricted use pesticide, the name and number of the owner/operator license or place of business permit and the certification number of the commercial applicator or licensee.

(3) The name and certification number of the certified commercial applicator for the school system.

(4) The brand name and EPA registration number of all pesticides to be used.

(5) The proposed location and dates for noncertified applicator training.

(6) A list of the following for each pesticide to be used:

(a) The pest to be controlled.

(b) The type of application to be used.

(c) The location of the application.

(d) Whether it is a restricted use pesticide or a general use pesticide.

C. The annual integrated pest management plan shall be submitted in writing to the director of pesticide and environmental programs for the Department of Agriculture and Forestry, on or before August first of each year and shall cover from August first of that year through July thirty-first of the following year.

D. The annual integrated pest management plan shall, upon request, be available for review by the commissioner and the general public in the business office of each school during regular school hours.

E. Any deviation from the submitted annual integrated pest management plan shall be delivered in writing to the director of pesticide and environmental programs no later than twenty-four hours prior to any pesticide application.

F. The annual integrated pest management plan shall not take the place of the recordkeeping requirements of R.S. 3:3243(G) and 3383.

G. Records of inspections, identification, monitoring, evaluations, and pesticide applications shall be maintained by the schools and submitted with the annual integrated pest management plan to the department annually on a form prescribed by the department.

Acts 1995, No. 237, §1; Acts 2015, No. 311, §1.

§3389. Hypersensitive student registry; notification

Each school shall maintain a hypersensitive student registry listing the names of students whose parents have submitted a written statement to the school which shall include but not be limited to the student's name and address, parent's or guardian's signature, name, and address, and a written medical verification by a licensed physician which includes the physician's signature, name, and address.

Acts 1995, No. 237, §1.

PART IX. FORMOSAN TERMITE INITIATIVE

§3391.1. Short title

This Part shall be known and may be cited as the "Formosan Termite Initiative Act".

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.2. Purpose; legislative intent

The legislature hereby finds and declares that the Formosan termite has for many years been a public nuisance, a pest, and a menace to homes and buildings, live trees, agricultural crops, electronic and communication cables, wooden bridges, railroad ties, pilings, and other structures. The Formosan termite causes massive destruction and damage. The Formosan termite problem crosses all racial, ethnic, financial, and cultural barriers and has caused damage in historic as well as business and residential areas. The purpose of this initiative is to manage infestations and halt the spread of the Formosan termite. The legislature hereby finds and declares that the spread of the Formosan termite must be contained and brought to a controllable level.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.3. Definitions

As used in this Part, the following terms shall have the following meanings, except where the context expressly indicates otherwise:

- (1) "Commissioner" means the commissioner of the Department of Agriculture and Forestry or his duly authorized designee.
- (2) "Department" means the Louisiana Department of Agriculture and Forestry.
- (3) "Formosan suppression zone" means any area or areas of the state designated by the commissioner where Formosan termite suppression or control programs may be undertaken.
- (4) "Formosan termite" means the termite *Coptotermes formosanus* in any state of development.
- (5) "Infested" means having the presence of live Formosan termites.
- (6) "Person" means any individual, firm, company, corporation, partnership, society, association, governmental agency, political subdivision, public entity, or any other entity created by federal or state law or recognized by Louisiana law.
- (7) "Regulated article" means any infested material.

Acts 1999, No. 486, §1, eff. June 21, 1999; Acts 2001, No. 167, §1, eff. May 25, 2001.

§3391.4. Formosan Termite Initiative Project

The Formosan Termite Initiative Project is hereby created within the Department of Agriculture and Forestry under the supervision and direction of the commissioner.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.5. Powers and duties of the commissioner

A. The commissioner shall consult with any advisory group appointed by the executive or legislative branch and may adopt rules and regulations in accordance with the Administrative Procedure Act as he deems necessary to administer, enforce, and effectuate the provisions and purposes of this Part. The commissioner shall have the authority to seek the assistance of the Louisiana Agricultural Finance Authority to effect the provisions of this Part. All rules are subject to oversight review by the House and Senate Committees on Agriculture, Forestry, Aquaculture and Rural Development, the House Commerce Committee, and the Senate Commerce, Consumer Protection, and International Affairs Committee.

B. The commissioner shall have full power to regulate regulated articles and to prevent, suppress, and control the Formosan termite. The commissioner, through agents or otherwise, may perform any acts as may be necessary to control, to prevent the introduction, spread, or dissemination of Formosan termites, and to provide for the treatment, movement, or disposal of any and all regulated articles by the owner of such regulated articles who offers the regulated article for transportation or movement.

C. The commissioner may waive any rules or regulations adopted pursuant to Chapter 20 of this Title when the commissioner deems such waiver necessary or appropriate to implement a quarantine or a Formosan termite treatment program in a suppression zone.

D. The commissioner may, to the extent he deems necessary and appropriate for the implementation of the provisions of this Part or this project, delegate his powers and duties to the staff of the department.

E. The commissioner may employ a director and an assistant director who shall be unclassified employees. The commissioner may employ such other personnel as he deems appropriate with approval of the Joint Legislative Committee on the Budget. All such employees shall be under the direction and supervision of the commissioner. Any person performing services for the department under the provisions of this Part shall, in the performance of such services, be exempt from all provisions of Chapter 20 of this Title regulating the performance of such services but shall be subject to the conditions and restrictions imposed by the commissioner.

Acts 1999, No. 486, §1, eff. June 21, 1999; Acts 2001, No. 167, §1, eff. May 25, 2001; Acts 2003, No. 116, §1, eff. May 28, 2003; Acts 2003, No. 183, §1.

§3391.6. Cooperative agreement

The commissioner is authorized to carry out programs to suppress or control the Formosan termite in the state. The commissioner is authorized to cooperate with and may enter into cooperative endeavor agreements with any agency of the federal government, any state, any other agency in the state or in the region, or any other person or groups of persons in order to effectuate and carry out the purposes and provisions of this Part. Such cooperative endeavor agreements may provide for cost sharing and for division of duties and responsibilities under this Part and may include other provisions generally to effectuate and carry out the purposes and provisions of this Part.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.7. Quarantine

A. In order to preserve public health and welfare and to prevent the dissemination or spread of Formosan termites into uninfested areas of the state, the commissioner shall have the power to declare and enforce a quarantine of any infested structure, premises, or regulated article in any parish or municipality.

B. A quarantine shall go into effect immediately upon being declared by the commissioner, unless a later effective date is stated in the declaration of quarantine. Upon declaring the quarantine, the commissioner shall cause the quarantine to be published, within five working days of declaration, in the official journal of the state and shall publish the quarantine in the next available Louisiana Register. Failure to publish the quarantine as provided shall cause the quarantine to expire twenty-one days from the date of declaration.

C. The commissioner may lift a quarantine by publishing a declaration lifting the quarantine in the same manner as required for declaration of a quarantine.

D. The declaration of quarantine shall detail a concise statement of the facts supporting the declaration, the geographical area of quarantine, the date the quarantine is to begin, and the objectives of the quarantine.

E. The shipment or movement of regulated articles from any quarantine area of the state is prohibited until such time as the quarantine has been lifted, unless such shipment or movement is in accordance with procedures for the shipment or movement of regulated articles established by the commissioner by rule or such shipment or movement is by special written permission of the commissioner.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.8. Formosan termite suppression zones; creation of suppression and control programs

A. The commissioner may designate one or more areas of the state as Formosan termite suppression zones where Formosan termite treatment, control, or suppression programs may be undertaken.

B. The designation of an area as a suppression zone shall define the geographical limits of the suppression zone, establish the effective date of the creation of the suppression zone, and state the nature of the Formosan termite treatment, control, or suppression program that may be conducted in that suppression zone, and the date such treatment may begin.

C. A designation of an area as a suppression zone shall go into effect immediately upon being declared by the commissioner, unless a later effective date is stated in the declaration. Upon declaring an area as a suppression zone, the commissioner shall cause the declaration to be published, within five working days of signing, in the official journal of the state and shall publish the declaration in the next available Louisiana Register. Failure to publish the declaration of a suppression zone as provided shall cause the suppression zone to expire twenty-one days from the date of declaration.

D. The commissioner may lift a designation of an area as a suppression zone by publishing a declaration revoking the designation in the same manner as required for declaration of a suppression zone.

E. The commissioner may determine the nature and extent of the treatment program needed, the nature, type, and amount of termiticide to be used, and the frequency of application and may devise a plan for the implementation of the treatment program.

F. Pursuant to the Louisiana Underground Utilities and Facilities Damage Prevention Law, upon declaration of a suppression zone, the commissioner shall notify a regional notification center. Upon receipt of notice, a regional notification center shall give notice of intent for treatment and shall notify all member operators having underground utilities or facilities in or near the sites to be drilled or bored under the treatment program so that the treatment may proceed in a timely manner.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.9. Entry of premises; inspections

A. The commissioner or his authorized agents, upon reasonable notice and during reasonable hours with consent of the owner, renter, or the lessee if the property is under lease, may enter any dwelling, building, structure, premises, or any other property within the state when circumstances would lead a reasonable man to suspect that Formosan termites may be present in order to inspect for Formosan termite infestation, and to carry out suppression or control activities, including but not limited to treatment with pesticides, sampling, monitoring, and destruction of Formosan termites or regulated articles, as may be necessary to carry out the provisions and purposes of this Part.

B. In the event that the owner, renter, or the lessee, if the property is under lease, does not consent to the entry to any dwelling, building, structure, premises, or any other property within the state for the purpose of carrying out the provisions of this Part or any other activities authorized by this Part, the commissioner or his duly authorized agent may apply to the court of proper jurisdiction and venue where the entry is to occur for an order or orders authorizing the right of entry to any such property for the purposes of carrying out the provisions or purposes of this Part or any other activities authorized by this Part. Notwithstanding any provision of law giving precedence to any other matter, any motion by the commissioner for authority to enter any property made pursuant to this Subsection shall take precedence over all matters except pending motions for the right of entry under this Subsection and shall be taken up by the court at the earliest possible time.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.10. Investigations

The commissioner may conduct an investigation when he has reasonable grounds to believe that a violation of the provisions of this Part or the rules or regulations adopted pursuant to this Part has occurred. In connection with such investigation, the commissioner may issue and serve subpoenas to compel the

attendance of witnesses or the production of documents and records anywhere in the state in accordance with the Administrative Procedure Act.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.11. Regulated articles; stop orders

A. When the commissioner believes that a violation of the provisions of this Part, of the rules or regulations adopted pursuant to this Part, or of any quarantine imposed by the commissioner has occurred or is reasonably expected to occur, the commissioner may issue a stop order prohibiting the use, shipment, movement, distribution, or disturbance of the regulated article or material involved in the violation. Stop orders shall be served in the same manner as provided for the service of subpoenas under the Administrative Procedure Act.

B. Any person aggrieved by a stop order may petition the commissioner, in writing and within thirty days of the stop order, to hold a hearing on the matter. Such hearing shall be held in accordance with the Administrative Procedure Act.

C. Based upon the results of the hearing or based upon a consent agreement mutually entered into by the commissioner and the person subject to the stop order, the commissioner may order the regulated article or material to be either:

- (1) Released from the stop order according to the terms and conditions the commissioner deems proper.
- (2) Disposed of by the person according to the terms and conditions the commissioner deems proper.
- (3) Destroyed according to the terms and conditions the commissioner deems proper.
- (4) Otherwise disposed of according to the terms and conditions the commissioner deems proper.

Acts 1999, No. 486, §1, eff. June 21, 1999.

§3391.12. Enforcement; civil penalties

A.(1) In order to enforce the provisions of this Part, the rules or regulations adopted pursuant to this Part, or any quarantine declared or stop order issued by him or in order to implement a treatment program, the commissioner may:

- (a) Seek and obtain from a court of proper jurisdiction and venue an order or orders of enforcement.
- (b) Seek and obtain injunctive relief from any court of proper jurisdiction and venue to restrain and prevent violations.
- (c) Institute civil proceedings for enforcement in any court of proper jurisdiction and venue.

(2) The commissioner may request the awarding of costs and attorney fees in any court proceeding brought pursuant to this Section.

B.(1) The commissioner may impose civil penalties for violations of the provisions of this Part, the rules or regulations adopted pursuant to this Part, or any quarantine declared or stop order issued by him.

(2) Any civil penalties imposed shall not exceed five thousand dollars per offense. Each day on which a violation occurs shall be considered a separate offense.

(3) Civil penalties shall be imposed only on the basis of an adjudication of violations pursuant to an adjudicatory hearing held in accordance with the Administrative Procedure Act.

(4) The commissioner may assess the proportionate costs of the adjudicatory hearing against the offender. The commissioner by rule shall determine the amount of costs to be assessed.

C. All assessments, fees, penalties, and other funds received under the provisions of this Part shall be deposited immediately upon receipt into the state treasury.

Acts 1999, No. 486, §1, eff. June 21, 1999; Acts 2012, No. 834, §1, eff. July 1, 2012.