



Florida Department of Agriculture & Consumer Services  
**CHARLES H. BRONSON, Commissioner**  
The Capitol • Tallahassee, FL 32399-0800

MEMORANDUM 798

DATE: July 1, 2006

TO: All Structural Pest Control licensees, Employee Identification Cardholders, and other interested persons

FROM: Michael J. Page, Chief  
Bureau of Entomology and Pest Control

SUBJECT: Recent changes to Definitions and Employee Identification Cardholders Sections of Chapter 482, Florida Statutes.

Please Respond to:  
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Effective July 1, 2006, the Florida Legislature enacted several changes to Chapter 482, Florida Statutes. In section 482.021, Florida Statutes, the definitions of "employee" and "independent contractor" were modified to provide additional clarity.

Subsection (5) of section 482.051, Florida Statutes, was also amended to require ALL primary preventive treatments in new construction to follow label directions and keep the required records of the application.

Section 482.091(2)(a), Florida Statutes, was amended to incorporate the changes to the definitions of employee and independent contractor.

All Licensees should be aware of these changes and examine their operations to make sure they comply.

A copy of the amendments are provided below. Please contact this office for any additional information.

Section 1. Subsections (7) and (12) of section 482.021, Florida Statutes, are amended to read:

**482.021 Definitions.**--For the purposes of this chapter, and unless otherwise required by the context, the term:

(7) "Employee" means a person who is employed by a licensee that provides that person with necessary training, supervision, pesticides, equipment, and insurance and who receives compensation from and is under the personal supervision and



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direct control of the licensee's certified operator in charge and licensee from whose ~~which~~ compensation of the licensee regularly deducts and matches federal insurance contributions and federal income and Social Security taxes.

(12) "Independent contractor" means an entity separate from the licensee that:

(a) Receives moneys from a customer which are deposited in a bank account other than that of the licensee;

(b) Owns or supplies its own service vehicle, equipment, and pesticides; ~~or~~

(c) Maintains a business operation, office, or support staff independent of the licensee's direct control;

(d) Pays its own operating expenses such as fuel, equipment, pesticides, and materials; or

(e) ~~(e)~~ Pays its own workers' worker's compensation as an independent contractor.

Section 2. Subsection (5) of section 482.051, Florida Statutes, is amended to read:

**482.051** Rules.--The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter. Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public which require:

(5) That any pesticide used as the primary preventive treatment for ~~preconstruction treatments for the prevention of~~ subterranean termites in new construction be applied in the amount, concentration, and treatment area in accordance with the label; that a copy of the label of the registered pesticide being applied be carried in a vehicle at the site where the pesticide is being applied; and that the licensee maintain for 3 years the record of each preconstruction treatment, indicating the date of treatment, the location or address of the property treated, the total square footage of the structure treated, the type of pesticide applied, the concentration of each substance in the mixture applied, and the total amount of pesticide applied.

Section 3. Paragraph (a) of subsection (2) of section 482.091, Florida Statutes, is amended to read:

**482.091** Employee identification cards.--

(2)(a) An identification cardholder must be an employee of the licensee and work under the direction and supervision of the licensee's certified operator in charge and shall ~~may~~ not be an independent contractor. An identification cardholder shall ~~operate may perform only pest control services out of, and or for customers assigned arising from, the licensee's licensed business location. An identification cardholder shall ~~may~~ not perform any pest control independently of and without the knowledge of the licensee and the licensee's certified operator in charge and shall ~~may~~ perform pest control only for the licensee's customers.~~