

Clemson University Department of Pesticide Regulation

Annual Termite Inspections: The Regulatory Perspective

A Guide for Applicators and Homeowners



Department of
Pesticide Regulation

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Each year, the Department of Pesticide Regulation (DPR) investigates numerous complaints about wood destroying organism (WDO) damage and infestation revealed on Wood Infestation Reports (or other inspections) that have not been reported during previous annual renewal inspections. As you are aware, the South Carolina Pesticide Control Act mandates full disclosure of all visible and accessible WDO infestations and damage on the Wood Infestation Report.

Although historically there was no similar "full disclosure" standard for inspections conducted for specific WDO contracts, *e.g.*, annual termite inspections, changes to the Rules and Regulations for the Enforcement of the South Carolina Pesticide Control Act now allow DPR to enforce the terms of a customer's contract. In January 2006, the following regulation was added and implemented: **"Inspections must be conducted as per the terms of the warranty or the termiticide label, whichever results in more frequent inspection of the structure." {27-1085 G (2) j}**. In other words, DPR does not require an applicator to inspect a structure annually, but if your customer's service contract states that you will conduct an inspection every year, then you must live up to the terms of that contract. Likewise, if the label of any pesticide you use during a treatment states that an annual inspection must be completed, then you must comply with that label's language, regardless.

While all legal cases are specific to their own particular facts, we have seen that sometimes courts have held that you have a duty to inform the homeowner of apparent problems beyond those covered in your contract. The terms of your contract, however clearly specified, may not free you from this "obligation to disclose." The court may hold you to a standard of what it believes a "reasonable and prudent" operator would do.

Annual renewal inspections should be performed only by a qualified inspector and should involve a thorough inspection of all areas of the sub-structure that are covered by the contract. Wood destroying organism problems that are not observed or reported during an annual inspection can sometimes increase in severity. This results not only in increased liability for the PCO, but also in the loss of both credibility and additional income.

Answering the So What Question

Why are annual inspections so important? The answer is obvious.

Annual inspections are an excellent opportunity for quality-control checks on previous work, and many companies pay technicians a "bounty" for detecting inadequacies on previous treatments.

Many companies also report that a significant amount of new business is sold (or identified for later follow-up by a salesperson) by technicians during routine annual re-inspection.

A thorough inspection by a well-trained and competent technician, properly and professionally reported to the property owner, will not only protect the customer, but it can also form the foundation of that customer's confidence in your company.

So What Do I Look For?

Annual termite inspections should be thorough, and it would be wise not to limit the scope of such inspections to just the presence or absence of termites. In fact, most experts, consultants, and academic professionals associated with the structural pest control industry believe and teach that the annual inspection should be no less thorough than an inspection for a Wood Infestation Report. Moisture problems, in particular, are important because excessive moisture conditions are conducive to termite infestations.

The same instructions outlined in the Rules and Regulations (see 27-1085 K (3) a through f) for Wood Infestation Report inspections can be used as a basis for any annual inspection:

- ▶ Inspect all accessible areas of the interior and exterior of the structure, including crawlspaces, utility areas, and attics.
- ▶ Carefully sound and probe all areas where damage is visible.
- ▶ Take wood moisture-content readings around the interior perimeter of the crawlspace and in the accessible portions of the center of the crawlspace. Those areas can be especially vulnerable to termite infestations.
- ▶ Determine the nature, activity, and cause of all visible and accessible wood-destroying insect infestations in the structure.

If you see other pest infestations (rather than termites or other WDO) while you are inspecting a structure, regardless as to whether you may be under a legal obligation to inform your customer, it would be just “good business” to tell them. For instance, if you notice your customer has a pretty hefty rat infestation underneath their house, odds are your customer would want to know—once the infestation reaches a level to the point where the rats are barging into the break-fast nook, they’ll be calling you anyway.

When Does Regulatory Get Involved?

As you know, DPR is responsible for enforcing provisions of state and federal pesticide laws that set minimum performance standards for your business. That being said, allegations of improper pesticide use or application are clearly part of our responsibility. In the pest control setting, these usually involve the placement or movement of a pesticide into a non-target area, the use of the wrong pesticide, too much of the correct pesticide, or, in the case of termites only, the use of too little pesticide.

Under Section 46-13-90 (1) of the SC Pesticide Control Act, it is a violation to make false or misleading statements about a pest infestation or about a proposed treatment. Departmental inspections under this section of the Act are prompted by differences of verbal or written opinion between at least two PCOs (or sometimes a PCO and another professional). However, if the nature of the dispute is limited to what is the proper treatment procedure, we may deal with those questions by phone.

Disputes arising from ongoing contracts (such as termite contracts) often involve the issue of presence of activity because of contract stipulations that limit repair coverage to “new damage.” While we do not have the jurisdiction to arbitrate the issue of liability for any damages, we can address the issue of activity. We do not have the resources to provide consulting services for everyone who disagrees with the PCO’s inspection; however, we can make an inspection if there is reasonable evidence that the covered pests (termites, for example) are present and the PCO, for whatever reason, has been unable to find them.

Standards for termite treatments are outlined in the Rules and Regulations for the Enforcement of the SC Pesticide Control Act. Every termite treatment performed in the state of South Carolina must adhere to those standards. In some cases, you may use a Waiver. This must be done in writing. See our Bulletin about properly using a Waiver form on our website at <http://dpr.clemson.edu/Acrobat/index.html>. Allegations of improper treatment are usually based upon inspection by a second PCO or on observations made by the property owners. Inspections will be made where a treatment has been alleged not to meet the standards. Situations where a PCO has simply failed to control an infestation or failed to perform on some other aspect of their contract may be investigated if there is evidence that the Regulations have also been violated. Contractual issues that do not involve potential violations are usually outside of our scope.

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Beaufort.....	843.255.6060 Ext 111
Charleston.....	843.225.7065
Clemson.....	803.260.1462
Columbia.....	803.736.7680 Ext 112
Florence.....	843.667.1393
Newberry.....	803.403.7262
North Myrtle Beach.....	843.360.1512
York.....	803.628.0303

DPR Field Office locations and telephone numbers.

The objective of the Department of Pesticide Regulation is to use educational efforts as much as possible to gain voluntary compliance, hence our motto, “*Regulation through Education.*”



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