

CIRCULAR 6. Page 16 / 40

3. Meeting Minimum Standards.

Each building on which a contract is issued for the prevention, control or eradication of termites shall meet the Minimum Standards outlined in Section III A, III B, III D or III E of these regulations, unless unusual structural or physical conditions render the correction of certain conditions to portions of the building impractical. In such cases, **an exclusion of certain minimum treating standards shall be made on forms supplied by the Plant Board.** ~~an agreement for responsibility of performance or waiver of meeting certain requirements for Structural Pest Work may be requested, provided~~ **Provided** the remainder of the structure is treated to meet all remaining Minimum Standards. **Requests for exclusion of certain minimum treating standards shall be made on forms supplied by the Plant Board. Each request for exclusion of certain minimum treating standards shall contain all property owner and pest control operator information and all information must be provided or the request will be considered incomplete and will not be processed. Each request for exclusion shall also clearly state which treatment standard is to be excluded. An inspection fee of \$50.00 shall accompany the request. Should Plant Board staff determine, through direct communication with the property owner, that the property owner is not fully informed and in agreement with the type and quality of work to be performed under the exclusion agreement, approval to exclude the requested treatment standard will be denied. The approval/denial decision will be made within two (2) working days from the date of receipt of the request. If a request for exclusion of certain minimum treating standards is approved, a form with a notification of approval will be returned to the Pest Control Operator. The Pest Control Operator shall sign the form, secure the signature of the Property Owner and date of signing. The signed and dated form shall be considered an attachment of the Contract for Control of Termites issued on the subject property and shall be submitted with a copy of the contract and graph to the property owner and also reported in the copies sent to the Plant Board. The contract, issued on the building for which the Exclusion of Certain Minimum Treating Standards has been approved, shall clearly state that minimum requirements for Structural Pest Control Work have not been fulfilled and reference the form as being a part of the contract. Contracts for which an Exclusion has been approved but that do not clearly reference the exclusion form as a part of the contract, the exclusion approval shall be considered invalid and the operator shall be issued a Report of Sub-Standard Termite Treatment (Pink Slip) for the specific substandard conditions. The use of any document or agreement, for the purpose of issuing a substandard termite treatment contract, other than a pre-approved Exclusion of Certain Minimum Treating Standards form, issued by the Plant Board, is strictly prohibited. Enforcement action shall be taken against all license holders and licensed operators found in violation of this regulation and the violation shall be considered Misrepresentation for the Purpose of Deceiving or Defrauding and subject to the fourth (4th) level of enforcement as per Arkansas State Plant Board Pest Control Enforcement Response Regulations and Appendix A of Circular 6.**

The maximum number of Exclusions of Certain Minimum Treating Standards approvals available to any license holder in any license year (currently July 1 to June 30) shall be limited to a number equal to ten percent (10%) of the number of buildings covered with a termite protection plan for which the license holder reported and paid reporting fees during the previous license year.

Agreements for waiving minimum requirements for structural pest work shall be made on forms supplied by the Plant Board. Each signed and dated by the property owner, or prospective buyer and the licensed operator. The contract issued on the building for which a waiver of the minimum

~~requirements is requested shall clearly state that minimum requirements for Structural Pest Work have not been fulfilled and reference the waiver as being a part of the contract.~~

4. Letters of Clearance / Wood Destroying Insect and Organisms Report

Any statements as to the condition of a building pertaining to termites, other wood destroying insects or decay fungi (Rot), other than a bid or proposal for treatment shall be considered a Letter of Clearance. Letters of Clearance issued in connection with a real estate transaction shall be made on a form officially adopted by the State Plant Board. This form shall be the current Wood Destroying Insect Infestation Inspection Report form prescribed by HUD. Letters of clearance must be accompanied by a signed contract providing a guarantee of at least one year and a graph or diagram showing, if present, the location of active or inactive wood destroying insect infestations and visible damage. If present, conditions existing to the substructure favorable to decay fungi and possible damage due to rot must be disclosed in the additional comments section on the form. Structures upon which letters of clearance are written must meet all conditions stated in the letter as well as all the minimum requirements for structural pest work in Sections IIIA, IIIB, and IIID or III E. For additional responsibility on Letters of Clearance see Section II, Item I, Contracts.

Areas which are inaccessible for inspection must be clearly described in the letter.

When a Letter of clearance is issued on a building for which previous substandard prior approval, ~~or~~ waiver of the minimum treating requirements, or exclusion of certain minimum treating standards has been given, the operator shall notify the new owner ~~in writing (on the Clearance Letter if possible)~~ on the Clearance Letter and Contract, that specified prior approved substandard conditions exist in the structure. When this is done the operator shall not be issued a Report of Substandard Termite Treatment on the specified substandard conditions.

5. Reporting and Reinspection Fees - Correcting Substandard Work.

Each license holder shall remit to the Plant Board, by the 15th day of each month, an inspection fee of \$5.00 for each building on which a contract has been issued during the previous calendar month excluding new contracts issued with letters of clearance on buildings under current contracts. The \$5.00 reporting fee shall be paid on each building treated regardless of how many buildings are covered by a single contract. If for any reason the payment of this fee is delayed more than 30 days the fee shall be doubled. The Plant Board, through its authorized representatives, reserves the right to inspect any or all buildings on which a contract has been issued, to determine compliance with the Pest Control Law and Rules and Regulations made thereunder.

Should inspections, by the Plant Board's representatives, of buildings covered by a contract, including a renewal of a contract and/or Letter of Clearance, be found infested with termites or other structural pests for which prevention, control or eradication has been contracted, or if the Plant Board's minimum standards (Sections IIIA, IIIB, IIID and III E), other than those excepted in the contract and given prior approval, ~~or~~ a waiver of certain minimum treating standards, or an exclusion of certain minimum treating standards by the Plant Board, have not been met or fulfilled, or misrepresentations have been made to the owner, the Plant Board will send the license holder a notice to that effect. The license holder shall, within 15 days, retreat the building when necessary and otherwise bring the building into compliance with the law and these regulations and shall submit to the Plant Board along with the report of correction an appropriate reinspection fee. If the necessary corrections cannot be made in 15 days due to circumstances beyond the license

holder's control, additional time may be requested from the Plant Board office. When a notice has not been returned by the due date and the license holder has not contacted the Plant Board office concerning the notice, a reinspection of the building will be made and another notice will be issued, if the building has not been brought up to standard at the time of the reinspection. Should subsequent reinspections reveal the building still not in compliance, the same procedure outlined above will be followed. These fees are to pay for the cost of inspections and payment does not preclude invalidation of a license by the Plant Board should this be warranted.