

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

DIVISION OF AGRICULTURAL ENVIRONMENTAL SERVICES

BUREAU OF ENTOMOLOGY AND PEST CONTROL

RULE TITLE:

RULE NO.:

Contractual Agreements in Public's Interest – Control
And Preventive Treatment of Wood Destroying Organisms

5E-14.105

PURPOSE AND EFFECT: The purpose and effect of the proposed rules are to add amendments to the rule regarding contracts for wood destroying organisms that would require the signature on these contracts, would require a master contract for treatment of multiple properties owned by a single owner, require periodic reinspections, require the use of a department form for informing consumers when a second contract for the same wood destroying organism control is offered, and require a damage repair warranty when a protection contract is offered but no treatment is performed.

SUMMARY: The addition of amendments to the rule regarding contracts for wood destroying organisms that would require the signature on these contracts, would require a master contract for treatment of multiple properties owned by a single owner, require periodic reinspections, require the use of a department form for informing consumers when a second contract for the same wood destroying organism control is offered, and require a damage repair warranty when a protection contract is offered but no treatment is performed.

STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. Any person who wishes to provide information regarding a Statement of Estimated Regulatory Cost, or provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 482.051, F.S.

LAW IMPLEMENTED: 482.051 (3), F.S.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Steve Dwinell, Assistant Director, Division of Agricultural Environmental Services, 3125 Conner Boulevard, Tallahassee, Florida, 32399; (850) 488-7447.

THE FULL TEXT OF THE PROPOSED RULE IS:

5E-14.105 Contractual Agreements in Public's Interest - Control and Preventive Treatment for Wood-Destroying Organisms.

(1) No change.

(2) (a) –(j) No change.

(k) The signature of the licensee or his authorized representative, and the signature, ~~or when unavailable the verbal consent,~~ of the property owner or authorized agent.

(3) Contracts covering treatments for the prevention of subterranean termites for new construction:

(a) Shall clearly set forth that additional treatment(s) shall be performed to control an infestation should subterranean termite infestation occur to the structure treated during the warranty period~~shall clearly set forth that should subterranean termite infestation occur to the structure treated during the warranty period, additional treatment shall be performed to control the infestation.~~ The warranty shall show either the date of initial or final treatment and shall be issued to the property owner or agent within 30 days of the date of initial or final treatment,

whichever is specified on the contract, and shall be for a period no less than one year from date of treatment specified on the contract, and,

(b) The property owner at the time of each renewal, if a previous renewal was purchased, shall have the option of extending the warranty annually after the first year for no less than 4 additional years. The contract shall conform with Section 482.227, F.S., and contain information required by paragraphs 5E-14.105(2)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and ~~(k)~~, F.A.C. and,

(c) For treatment of multiple properties for a single owner, if individual contracts are not issued prior to treatment, a licensee shall either enter into a master agreement with the owner or authorized agent prior to treatment that provides for the fulfillment of the requirements of subsection (a) and (b) above, or issue an assignable contract on the property on completion of the treatment.

(d) This section applies only to treatment for the prevention of subterranean termites for new construction which does not physically attach to or adjoin existing structures.

(4) No change.

(5) No change.

(6) When periodic reinspections ~~or retreatments~~ are specified in wood-destroying organisms preventive or control contracts, the licensee shall furnish the property owner or his authorized agent, after each reinspection ~~or retreatment~~, a signed report of the condition of the property with respect to presence or absence of wood-destroying organisms covered by the contract and whether retreatment was made. A copy of the inspection report shall be retained by the licensee for a period of not less than three (3) years.

(7) A structure shall not be knowingly placed under a second contract for the same wood-destroying organism control or preventive treatment in disregard of the first contract, without

first obtaining specific written consent in using DACS form 13671, 7/08~~letter form~~ signed by property owner or authorized agent.

(8) No change.

Specific Authority 482.051 FS. Law Implemented 482.051(3) FS. History—New 7-13-06, Amended 7-11-07; Amended _____-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Steve Dwinell

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr.
Anderson H. “Andy” Rackley

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 07/23/08

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: 05/02/08