

# Termite Action Report Form (TARF) Discussion Paper

Background:

Currently, the \$8 TARF filing fee serves as a major source of funding for OPM. A business licensee must file a TARF for each pre-treat, first post-construction treatment and termite inspection documented on the WDIIR form. OPM puts the treatment or inspection information into an online database accessible to anyone, which allows them to view these records for specific properties. If the TARFs are not filed in a timely manner, then late fees apply. Critics question the amount of the filing fee, the utility of the information in the online database, and the extra burden on termite companies in funding OPM.

Considerations:

## *Consumer Protection*

The Legislature may see the database as a means to allow a person to view all termite pesticide applications at a property. However, the database does not currently provide this potential benefit. The database only shows applications before the home is built and the first time a pest management professional (PMP) does a post-construction treatment of the property. The database does not show repeat applications by the same PMP within the warranty period.

Some realtors use the database in looking at selling homes to determine what type of termite activity and treatment has occurred at a particular address to help them in preparing notification paperwork. Homeowners and occasionally PMPs also use the database to check on the treatment status of homes. According to the IT section, the OPM receives approximately 400 inquiries per day in the eTARF database.

- Does the database currently serve a sufficiently useful purpose?
- Would it be better to scrap the database?
- Would it be better to improve the database (and reporting requirements) to make it more useful?
- Will the Legislature accept a recommendation to eliminate TARFs?

## *Regulatory*

TARFs presently provide OPM with information that assists OPM in its compliance work. For example, ARS 32-2321(B)(13) requires that within 12 months of a termite pretreatment a final grade treatment must be performed. When a consumer makes an

allegation that the company failed to perform the final grade, the absence of the final grade TARF usually supports that allegation.

Currently the OPM is investigating a case where numerous fictitious WDIIRs were issued to homebuyers. The investigation was initiated because the WDIIRs were not recorded in the TARF database. This has happened 3 times over the past 10 years.

The TARF database has also helped determine which business licensee performed a specific action or whether the individual who performed the action was licensed to perform it.

It was because of the TARF database that the OPM issued a notice two years ago informing PMP of the statutory requirement to hold a B2 and B8 license when issuing WDIIRs and Termite treatment proposal forms.

- Do the regulatory benefits of the TARFs justify keeping the reporting requirement even if TARFs are not needed for consumer protection?
- What information should the TARFs provide to serve OPM's regulatory purposes?

#### *Fairness*

Approximately 30% of all licensed businesses do termite treatments. Yet, through the TARF fee, this sector pays for a large portion of OPM's expenses. Some question whether it is fair that this small sector has to pay such a large portion of the funding, while others point out that TARF fees are passed on to the consumers. In addition, some argue that due to the limited number of PMPs paying a large portion of the funding, it provides them the opportunity to have greater influence over the OPM regulatory process.

- Does fairness to the industry require changes to the TARF structure?

#### *Fee*

OPM averaged \$1,353,933 in revenue over the past three years from TARF fees for an average of 169,242 TARFs filed. The following table shows how a lower fee would affect annual revenue:

| Fee | Revenue   | Revenue Lost |
|-----|-----------|--------------|
| \$3 | \$507,725 | \$846,208    |
| \$4 | \$676,967 | \$676,967    |
| \$5 | \$846,208 | \$507,725    |

- What should the TARF fee be?
- What about alternative fee options?
  - Pay for use – so much per usage, annual user fee
- How can OPM replace the revenue lost from a lower TARF fee?

Statutory References:

[32-2323. Wood-destroying insects; treatment proposal; registration form; fee](#)

G. Within thirty calendar days after completion of a termite treatment or on the next business day after the thirty calendar days, a business licensee shall file with the office in a form or format approved by the acting director a complete and accurate termite action registration form and a fee as prescribed by the acting director. The termite action registration form shall include information prescribed in section 32-2321, subsection C, paragraph 11 (copied below) and this section. This subsection only applies to the following:

1. Any treatments done before or during construction, including final grade treatments.
2. The first preventative or corrective termite treatment by a business licensee to a site. If the business licensee who performed this termite treatment performed the before or during construction treatment at the same site and filed a termite action report form with the office documenting the before or during construction treatment, the business licensee is exempt from this paragraph.
3. A wood-destroying insect inspection report.

32-2321, subsection C, paragraph 11

The business licensee fails within thirty calendar days after completion of a termite treatment that is done before or during construction, an initial termite corrective treatment project or a wood-destroying insect inspection report to file with the office, in a form approved by the acting director, all data required by the acting director. The data shall include:

- (a) The name of the individual who performed the work.
- (b) The address or location of the work or project.
- (c) The type and the date of the work.
- (d) The name of the business licensee.
- (e) The name of the qualifying party.
- (f) The applicator's license number.
- (g) Any other information required by rule.

[32-2324. Wood-destroying insect inspection reports](#)

A. Wood-destroying insect inspection reports may only be completed by an applicator or qualifying party who is licensed in the categories of management of wood-destroying insects and wood-destroying insect inspection and who has received at least five hours of instruction from the office or the former structural pest control commission or an in-house education program of a business licensee on the subject of wood-destroying insect inspection reports. An examination on the

instruction is not required. The business licensee shall keep a record of completion of the training and shall make the record available on the acting director's request.

B. Wood-destroying insect inspection reports shall be on file in the office of the business licensee within seven calendar days after the completion of an inspection. The business licensee shall retain a copy of all completed wood-destroying insect inspection reports for five years and make the reports available on the acting director's request.

C. Wood-destroying insect inspection reports are evidence of the existence or absence of wood-destroying insects that were visible and accessible to an inspector on the date the inspection was made. A business licensee remains responsible for the accuracy of the inspection and the report as evidence of the presence or absence of infestation on the date of inspection, except that a wood-destroying insect inspection report shall not be construed as a guarantee as to the presence or absence of wood-destroying insects in a structure after the date of inspection.