



STATE OF WASHINGTON

DEPARTMENT OF AGRICULTURE

P.O. Box 42560 • Olympia, Washington 98504-2560 • (360) 902-1800

**IMPORTANT NOTICE TO STRUCTURAL PEST INSPECTORS
WHO CONDUCT COMPLETE WDO INSPECTIONS
AS DEFINED BY RCW 15.58.030(4)***

July 2008

**Interpretive Statement on Inspection Contracts
and Insurance Policies; RCW 15.58.460 through .470**

The enclosed Interpretive Statement addresses two very important issues for Structural Pest Inspectors that may affect the status of your license:

Limiting Liability in Client Inspection Contracts: Inspectors' liability for errors or omissions during an inspection cannot be reduced below the minimum amount required by statute, even if the client voluntarily agrees to such limitations.

Insurance Policy Exclusions: Insurance policies cannot exclude coverage for errors or omissions when such coverage is required by statute. Examples include, but are not limited to, policies that exclude coverage when:

- the inspection was not performed according to government regulations
- the inspection is a "reinspection"
- the inspector fails to complete and maintain a copy of the inspection
- damage is present at the time of inspection

The department plans to enforce the statutes as interpreted effective immediately. Please take the time to review your contracts and your insurance policy to ensure they comply with the law and make any necessary changes. If you have any questions please call Pesticide Compliance toll free at (877) 301-4555.

*A Complete WDO Inspection is defined as any inspection for the purpose of determining evidence of infestation, damage or conducive conditions as part of the transfer, exchange, or refinancing of any structure in Washington State. A Complete WDO inspection also includes any WDO inspection that is conducted as the result of telephone solicitation by an inspection, pest control or other business, even if the inspection would fall within the definition of a specific WDO inspection.



STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE

PO Box 42560 • Olympia, Washington 98504-2560 • <http://agr.wa.gov> • (360) 902-1800

Interpretive Statement

To: Code Revisers Office
Number: DO-02-2008
Subject: Purported Limitation of Liability Insurance by Structural Pest Inspectors

Description: In order to inform the structural pest inspection industry of the Washington State Department of Agriculture's interpretation of the minimum financial responsibility requirements for Structural Pest Inspectors, the Department issues this Interpretative Statement pursuant to RCW 34.05.010(8) and 34.05.230.

The Washington Pesticide Control Act in RCW 15.58.445-470 governs Structural Pest Inspectors and any business that employs them. RCW 15.58.460 and .465 require Structural Pest Inspectors or their employing business to obtain and maintain evidence of financial responsibility in the form of errors and omissions insurance policies, surety bonds, a combination of both, or assigned accounts (also referred to as "financial coverage") in a total amount of not less than \$25,000 in order to be licensed in this state. The purpose of this minimum financial coverage requirement is to protect the people of the state who do business with Structural Pest Inspectors by ensuring a source for monetary recovery for clients who suffer damages as a result of an Inspector's errors or omissions. Having financial coverage can also help protect the assets of an Inspector or the business that employs the Inspector in the event of a claim.

The minimum financial responsibility requirement is of such critical importance that the Washington legislature authorized the Department in RCW 15.58.470 to **immediately suspend** the license of a Structural Pest Inspector who fails to maintain financial coverage in at least the minimum amount required by RCW 15.58.460 and .465.

1. Pest Inspection Contracts

The Department has become aware that certain Structural Pest Inspectors attempt to make the statutorily-required amount of financial coverage unavailable to their clients by including clauses in their Inspection Contracts that purport to **limit the liability of the** Inspector to just the cost of the inspection.

The Department interprets RCW 15.58.460 through 15.58.470 to mean that if an Inspector (1) fails to maintain the required amount of financial coverage, or (2) executes

CODE REVISER'S OFFICE STATE OF WASHINGTON FILED	
JUL 15 2008	
TIME	1106
WSR	08-15-076

AM
WSR

a contract that has the potential effect of making the required amount of financial coverage unavailable to its inspection clients through a limitation of liability clause, the financial responsibility requirement of the Inspector will be deemed to have fallen below the level required by RCW 15.58.460 and .465 to maintain licensure. In such case, the Director, under RCW 15.58.470, may **immediately suspend** the Inspector's license for failing to maintain the minimum financial coverage during the licensing period.

2. Pest Inspector Insurance Policies

As stated above, RCW 15.58.460 and .465 require Inspectors or their employing businesses to maintain \$25,000 in financial coverage for errors and omissions. The Department is aware of insurance policies that purport to exempt certain errors and omissions from coverage, or purport to reduce coverage below \$25,000. The Department believes such policies fail to meet an Inspector's financial responsibility requirements under RCW 15.58.460 and .465. Accordingly, in such case, under RCW 15.58.470 the Director may **immediately suspend** the Inspector's license.

To receive a copy of this interpretive statement contact:

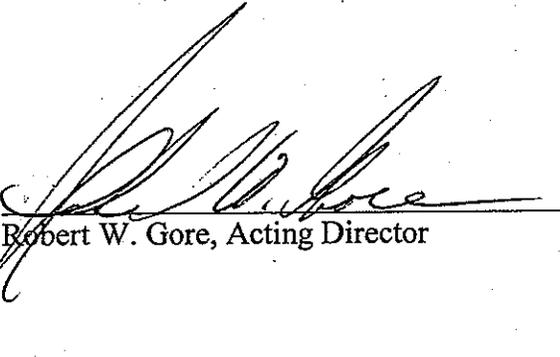
1. <http://agr.wa.gov/LawsRules/ISNameIndex.htm>

Or

2. Cliff Weed, Compliance Services Program Manager
Telephone at (360) 902-2036 or e-mail at cweed@agr.wa.gov

Or

3. Rules Coordinator
Administrative Regulations Office
Washington State Department of Agriculture
P.O. Box 42560
Olympia WA 98504-2560
Phone: (360) 902-1809
Fax: (360) 902-2092
TDD: (360) 902-1996

Approved by: 
Robert W. Gore, Acting Director