

CHAPTER 34 - STRUCTURAL PEST CONTROL DIVISION

SECTION .0100 - INTRODUCTION AND DEFINITIONS

02 NCAC 34 .0101 General Duties

(a) Applicable to licensees only:

- (1) All licensed structural pest control operators shall faithfully and honestly carry out the provisions and terms of all contracts into which they enter for the control of structural pests.
- (2) In addition to following all minimum requirements outlined in the rules and regulations herein, licensed structural pest control operators shall be responsible for obtaining satisfactory control of all insects, rodents, fungi, or other pests indicated in the control agreement(s).
- (3) Licensed structural pest control operators shall be responsible for obtaining satisfactory control of active infestations of pests for which control agreements were entered into prior to July 1, 1955, if contracts covering said agreements are currently effective.

(b) Applicable to both licensees and certified applicators:

- (1) The methods and materials used in structural pest control procedures shall be in accordance with the current label registrations of federal and State of North Carolina agencies responsible for making such registrations.
- (2) The possession, usage, application, storage, and disposal of all pesticides and all pesticide containers shall be in conformity with all federal and North Carolina State laws and regulations governing the possession, usage, application, storage, and disposal of pesticides and pesticide containers.
- (3) Licensed structural pest control operators or their authorized agents and certified applicators shall maintain at their business location(s) copies of current registered labels for all pesticides used. Such labels shall be made available for inspection upon request of the Division or the Committee.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 3, 1992; August 1, 1980.

02 NCAC 34 .0102 DEFINITIONS

In addition to the definitions contained in the Act, the following definitions apply:

- (1) "Act or law" means the Structural Pest Control Act of North Carolina of 1955.
- (2) "Active infestation of a specific organism" means evidence of present activity by that organism, visible in, on, or under a structure, or in or on debris under the structure.
- (3) "Active ingredient" means an ingredient which will or is intended to prevent, destroy, repel, or mitigate any pest.
- (4) "Acutely toxic rodenticidal baits" means all baits that, as formulated, are classified as Toxicity Category I or II (Signal Word "Danger" or "Warning") under 40 CFR Part 156.10.
- (5) "Board of Agriculture" means the Board of Agriculture of the State of North Carolina.
- (6) "Commercial certified applicator" shall mean any certified applicator employed by a licensed individual.
- (7) "Commercial structure" means any structure which is not a residential structure, including but not limited to shopping centers, offices, nursing homes, and similar structures.
- (8) "Complete surface residual spray" means the over-all application of any pesticide by spray or otherwise, to any surface areas within, on, under, or adjacent to, any structure in such a manner that the pesticide will adhere to surfaces and remain toxic to household pests and rodents or other pests for an extended period of time.
- (9) "Continuing education units" or "CEU" means units of noncredit education awarded by the Division of Continuing Studies, North Carolina State University or comparable educational institution, for satisfactorily completing course work.
- (10) "Continuing certification unit" or "CCU" means a unit of credit awarded by the Division upon satisfactory completion of one clock hour of approved classroom training.
- (11) "Crack and crevice application" means an application of pesticide made directly into a crack or void area with equipment capable of delivering the pesticide to the target area.
- (12) "Deficient soil sample" shall mean any soil sample which, when analyzed, is found to contain less than 25 percent, expressed in parts per million (ppm), of the termiticide applied by a licensee which would be found if the termiticide had been applied at the lowest concentration and dosage recommended by the labeling.

- (13) "Department" means the Department of Agriculture and Consumer Services of the State of North Carolina.
- (14) "Disciplinary action" means any action taken by the Committee as provided under the provisions of G.S. 106-65.28.
- (15) "Division" means the Structural Pest Control Division of the Department of Agriculture and Consumer Services of the State of North Carolina.
- (16) "Enclosed space" means any structure by whatever name known, including household structures; commercial buildings; warehouses; docks; vacant structures; places where people congregate such as hospitals, schools, churches, and others; railroad cars; trucks; ships; aircraft; and common carriers. It shall also mean vaults, tanks, chambers, and special rooms designed for use, being used, or intended to be used for fumigation operations.
- (17) "EPA" means the Environmental Protection Agency of the United States Government.
- (18) "EPA registration number" means the number assigned to a pesticide label by EPA.
- (19) "Flammable pesticidal fog" means the fog dispelled into space and produced:
- (a) from oil solutions of pesticides finely atomized by a blast of heated air or exhaust gases from a gasoline engine; or
 - (b) from mixtures of water and pesticidal oil solutions passed through a combustion chamber, the water being converted to steam, which exerts a shearing action, breaking up the pesticidal oil into small droplets (thermal fog); or
 - (c) from oil solutions of pesticides which are forced through very narrow space by centrifugal force and atomized as they are thrown off into the air (mechanical or cold fogs).
- (20) "Fog or fogging" means micron sized particles of pesticide(s) dispersed by means of a thermal or centrifugal fogger or a pressurized aerosol pesticide.
- (21) "Fumigation" means the use of fumigants within an enclosed space, or in, or under a structure, in concentrations which may be hazardous to man.
- (22) "Fumigation crew" or "crew" means personnel performing the fumigation operation.
- (23) "Fumigation operation" means all details prior to application of fumigant(s), the application of fumigant(s), fumigation period, and post fumigation details as outlined in these Rules.
- (24) "Fumigation period" means the period of time from application of fumigant(s) until ventilation of the fumigated structure(s) is completed and the structure or structures are declared safe for occupancy for human beings or domestic animals.

(25) "Fumigator" means a person licensed under the provisions of G.S. 106-65.25(a)(3) or certified under the provisions of G.S. 106-65.26 to engage in or supervise fumigation operations.

(26) "Gas-retaining cover" means a cover which will confine fumigant(s) to the space(s) intended to be fumigated.

(27) "General fumigation" means the application of fumigant(s) to one or more rooms and their contents in a structure, at the desired concentration and for the necessary length of time to control rodents, insects, or other pests.

(28) "Household" means any structure and its contents which are used for man.

(29) "Household pest" means any vertebrate or invertebrate organism occurring in a structure or the surrounding areas thereof, including but not limited to insects and other arthropods, commensal rodents, and birds which have been declared pests under G.S. 143-444. "Household pest" does not include wood-destroying organisms.

(30) "Household pest control" means that phase of structural pest control other than the control of wood-destroying organisms and fumigation and shall include the application of remedial measures for the purpose of curbing, reducing, preventing, controlling, eradicating, and repelling household pests.

(31) "Inactive license" shall mean any structural pest control license held by an individual who has no employees and is not engaged in any structural pest control work except as a certified applicator or registered technician.

(32) "Infestation of a specific organism" means evidence of past or present activity by that organism, visible in, on, or under a structure, or in or on debris under the structure.

(33) "Inspection for a specific wood-destroying organism" means the visual examination of all accessible areas of a building and the probing of accessible structural members adjacent to slab areas, chimneys, and other areas particularly susceptible to attack by wood-destroying organisms to determine the presence of and the damage by that specific wood-destroying organism.

(34) "Inspector" means any employee of the Structural Pest Control Division of the Department of Agriculture and Consumer Services of the State of North Carolina.

(35) "Licensed structural pest control operation," or "pest control operation," or "operator," or "licensed operator" means any person licensed under the provisions of G.S. 106-65.25(a) or unlicensed who, for direct or indirect hire or compensation is engaged in the business of structural pest control work, as defined in G.S. 106-65.24(23).

(36) "Liquefied gas aerosol" means the spray produced by the volatilization of a compressed and liquefied gas, to which has been added a nonvolatile oil solution containing a pesticide.

(37) "Noncommercial certified applicator" shall mean any certified applicator not employed by a licensed individual.

(38) "Open porch" means any porch without fill in which the distance from the bottom of the slab to the top of the soil beneath the slab is greater than 12 inches.

(39) "Physical barrier" as used in 02 NCAC 34 .0500, means a barrier, which, by its physical properties and proper installation, is capable of preventing the passage of subterranean termites into a structure to be protected from subterranean termites.

(40) "Residential structure" means any structure used, or suitable for use, as a dwelling such as a single- or multi-family home, house trailer, motor home, mobile home, a condominium or townhouse, or an apartment or any other structure, or portion thereof.

(41) "Secretary" means the Secretary to the North Carolina Structural Pest Control Committee.

(42) "Service vehicle" means any vehicle used regularly to transport the licensee or certified applicator or registered technician or other employee or any equipment or pesticides used in providing structural pest control services.

(43) "Slab-on-ground" means a concrete slab in which all or part of that concrete slab is resting on or is in direct contact with the ground immediately beneath the slab.

(44) "Solid masonry cap" means a continuous concrete or masonry barrier covering the entire top, width and length, of any wall, or any part of a wall, that provides support for the exterior or structural parts of a building.

(45) "Space spray" means any pesticide, regardless of its particle size, which is applied to the atmosphere within an enclosed space in such a manner that dispersal of the pesticide particles is uncontrolled. Pesticidal fogs or aerosols, including those produced by centrifugal or thermal fogging equipment or pressurized aerosol pesticides, shall be considered space sprays.

(46) "Spot fumigation" means the application of a fumigant to a localized space or harborage within, on, under, outside of, or adjacent to, a structure for local household pest or rodent control.

(47) "Spot surface residual spray" means the application of pesticidal spray directly to a surface and only in specific areas where necessary and in such a manner that the pesticidal material will largely adhere to the surface where applied and will remain toxic to household pests or rodents or other pests for which applied for an extended period of time.

(48) "Structure" means all parts of a building, whether vacant or occupied, in all stages of construction.

(49) "Structural pests" means all pests that occur in any type of structure of man and all pests associated with the immediate environs of such structures.

(50) "Sub-slab fumigation" means the application of a fumigant below or underneath a concrete slab and is considered spot fumigation.

(51) "Supervision," as used in 02 NCAC 34 .0325, shall mean the oversight by the licensee of the structural pest control activities performed under that license. Such oversight may be in person by the licensee or through instructions, verbal, written or otherwise, to persons performing such activities. Instructions may be disseminated to such persons either in person or through persons employed by the licensee for that purpose.

(52) "Termiticide(s)" (as used in these Rules) means those pesticides specified in 02 NCAC 34 .0502, Pesticides for Subterranean Termite Prevention and/or Control.

(53) "Termiticide barrier" shall mean an area of soil treated with an approved termiticide, which, when sampled, is not deficient in termiticide.

(54) "To use any pesticide in a manner inconsistent with its labeling" means to use any pesticide in a manner not permitted by the labeling. Provided that, the term shall not include:

(a) applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency;

(b) applying a pesticide against any target pest not specified on the labeling if the application is to the site specified on the labeling, unless the EPA has required that the labeling specifically state that the pesticide may be used only for the pests specified on the labeling; or

(c) employing any method of application not prohibited by the labeling unless the labeling specifically states that the product may be applied only by the methods specified by the labeling.

(55) "Type of treatment" means the method used to apply a pesticide formulation to a specific location, including but not limited to: space spray, crack and crevice, complete surface residual, spot surface residual, bait placement, or fog.

(56) "Unauthorized personnel" means any individual or individuals not given specific authorization by the licensee or certified applicator to enter areas to which access is restricted by these Rules.

(57) "Waiver" means a standard form prescribed by the Committee pursuant to 02 NCAC 34 .0603 which will, when completed correctly, permit the licensee to deviate from or omit one or more of the minimum treatment methods and procedures for structural pests which are set forth in the Committee rules, definitions, and requirements.

(58) "Wood-decaying fungi" means any of the brown or white rot fungi in the Class Hymenomycetes that are capable of digesting or consuming the structural elements of wood after installation and causing a significant decline in strength or failure of wooden structural members.

(59) "Wood-destroying insect report" means any written statement or certificate issued by an operator or his authorized agent, regarding the presence or absence of wood-destroying insects or their damage in a structure.

(60) "Wood-destroying organism" is an organism such as a termite, beetle, other insect, or fungus which may devour or destroy wood or wood products and other cellulose material in, on, under, in contact with, and around structures.

(61) "Wood-destroying organism report" means any written statement or certificate issued by an operator or his authorized agent, regarding the presence or absence of wood-destroying organisms or their damage in a structure.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 2004; August 1, 2002; July 1, 2000; July 1, 1998; August 3, 1992; January 1, 1991; January 1, 1989.

SECTION .0200 - STRUCTURAL PEST CONTROL COMMITTEE

02 NCAC 34 .0201 COMMITTEE SEAL

02 NCAC 34 .0202 DUTIES OF COMMITTEE SECRETARY

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Repealed Eff. September 1, 1987.

02 NCAC 34 .0203 ADMINISTRATION OF OATHS

The chairman of the committee or any other member of the committee may administer oaths for the purpose of administering the provisions of G.S. 106-65.28.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977.

02 NCAC 34 .0204 PUBLICATION OF LICENSEE/CERT. APPLICATOR ROSTERS

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980;

Repealed Eff. January 1, 1989.

02 NCAC 34 .0205 PUBLICATION OF OTHER INFORMATION

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977.

Repealed Eff. August 1, 1980.

02 NCAC 34 .0206

RULE-MAKING AND ADMINISTRATIVE PROCEDURES

History Note: Authority G.S. 106-2; 106-4; 106-12; 106-22; 150B-62;

Eff. August 1, 1982;

Repealed Eff. August 1, 1988.

SECTION .0300 - LICENSING AND CERTIFICATION

2 NCAC 34 .0301

FEES

(a) License, certified applicator's identification card, and registered technician's identification card fees shall not be prorated. All license, certified applicator's identification card and registered technician's identification card fees shall be paid, in full, in advance of the examination.

(b) Personal checks for fees returned unpaid for any reason shall be treated in the same manner as though no fee had been tendered.

(c) All moneys tendered in payment of fees shall be in the exact amount required for said fees.

History Note: Authority G.S. 106-65.29; 106-65.31;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; January 1, 1989.

02 NCAC 34 .0302 APPLICATION FOR LICENSES AND CARDS: EXAMINATION

(a) Application for licenses under the provisions of G.S. 106-65.26(a) and (c):

(1) Application for examination shall be on a regular form prescribed by the Division. All examinations shall be maintained and administered by the Committee secretary. The Committee may review the examinations and make recommendations regarding changes in same.

(2) Upon approval of the application for examination, the Committee secretary shall notify the applicant of said approval and provide the necessary form(s) for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.

(3) Applications to take the examination shall be either typed or printed in ink and sworn to before a notary public or some other official authorized by law to administer oaths.

(4) A clear full-face, head, and shoulder photograph of the applicant, taken within the preceding 12 months of the date of application, and not less than two and one-half inches square, shall be attached to the application.

(5) All applications to take the examination shall be retained by the office of the Committee secretary. All documents filed in support of an application shall be kept by the office of the Committee secretary; provided, however, that the Committee may at its discretion permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the Committee.

(6) An applicant who fails to pass the license examination within 12 months of the approval of his application may be required to provide current information concerning his qualifications to take the examination to ensure that the applicant is still qualified to take the examination.

(7) An applicant who gives or receives unauthorized assistance during an examination shall be dismissed from the examination and his markings or results shall be voided and said applicant's examination fee shall be forfeited. Such applicant shall not be permitted to take a reexamination for a period of six months from the date of the examination.

(8) No person shall be admitted to the examination room except members of the Committee, the attorney for the Committee, the examining personnel, employees of the Structural Pest Control Division, and the applicants for licenses.

(9) Any applicant making a score of 70 percent or more on any license examination(s) shall be issued a license in that phase(s) of structural pest control after making proper application therefor.

(10) The applicant shall furnish such information as the Committee may require to establish that said applicant possesses qualifications as specified in G.S. 106-65.26 of the Act for the particular license(s) which he seeks. The Committee, or its authorized representatives, may make such investigations as it deems necessary with respect to the applicant's qualifications.

(11) All applicants passing the examination(s) for licenses shall apply for said licenses within six months from the date on which the examinations were passed. If such applicants fail to make application for said licenses, within the specified period, such applicants shall be required to take and satisfactorily pass reexaminations covering phases of structural pest control work for which licenses were applied before said licenses are issued.

(12) If an applicant for a license fails an examination, he or she may review the examination at the next regularly scheduled review session.

(b) Application for certified applicator's identification card under the provisions of G.S. 106-65.26(a) and (b):

(1) Applications filed pursuant to G.S. 106-65.26(a) and (b) shall be on a regular form prescribed by the Division.

(2) An applicant for a certified applicator's identification card in any phase of structural pest control shall furnish such information as the Committee may require to establish that said applicant possesses qualifications as specified in G.S. 106-65.26 of the Act for the particular certified applicator's identification card which he seeks. The Committee or its authorized representatives may make such investigations as it deems necessary with respect to the applicant's qualifications.

(3) All applications for certified applicator's identification cards under the provisions of G.S. 106-65.26(a) and (b) shall be retained by the office of the Committee secretary. All documents filed in support of an application shall be kept by the office of the Committee secretary; provided, however, that the Committee may at its discretion permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the Committee.

(4) Any applicant making a score of 70 percent or more on the core certification examination and on any certified applicator's examination(s) shall be issued a certified applicator's identification card in that phase of structural pest control after making proper application therefor.

(5) All applicants passing the examination(s) for certified applicator's identification cards shall apply for said cards within six months from the date on which the examinations were passed. If such applicants fail to make application for said certified applicator's identification cards within the specified period, such applicants shall be required to take and satisfactorily pass reexaminations covering phases of structural pest control work for which certified applicator's identification cards were applied before said cards are issued.

(6) If an applicant fails to obtain a certified applicator's identification card within 12 months of passing the core examination the applicant must take and pass a reexamination before being eligible for the card.

(7) Upon receipt of the application for examination, the Committee secretary shall provide the necessary forms for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.

(8) If an applicant for a certified applicator's card fails an examination, he or she may review the examination at the next regularly scheduled review session.

(9) Subparagraphs (a)(2), (5), (7), and (8) of this Rule shall also apply to all applicants for certified applicator's identification cards.

(10) Effective January 1, 1999, completion of the Registered Technician School shall be a prerequisite for the certification examination.

(c) Pre-registration for license and certified applicator examination applicants:

(1) All applicants for the license and/or certified applicator's examination(s) shall pre-register with the Committee secretary for said examination(s) no less than 10 days prior to the date of the examination.

(2) Applicants who fail to pre-register shall not be permitted to take the examination.

(3) Pre-registration shall include a properly completed application for examination.

(d) Frequency of examination by license applicant limited:

(1) An applicant who initially fails to pass the license examination may retake the examination at any subsequent regularly scheduled examination.

(2) An applicant who fails to pass the second license examination shall wait a minimum of one examination between each subsequent examination: except that, in the event of a death of a

licensee the applicant intending to succeed the deceased licensee may take the examination a third time prior to the first one examination waiting period.

(3) No applicant shall be permitted to take the examination more than six times per year nor more than two times in consecutive months, except as provided for in Subparagraph (d)(2) of this Rule.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 3, 1992; January 1, 1991; January 1, 1989.

02 NCAC 34 .0303 DATES OF EXAMINATION AND EXAMINATION REVIEW

- (a) Examinations for all phases of structural pest control shall be given monthly.
- (b) The Division shall publish the date and location of each exam at least 30 days in advance of the examination.
- (c) Examination reviews shall be scheduled each month by the Division.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998.

02 NCAC 34 .0304

BRANCH OFFICE

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980;

Repealed Eff. January 1, 1991.

02 NCAC 34 .0305

FILING FORMS

All applications for a structural pest control license, certified applicator's card or registered technician's identification card shall be made on forms prescribed by the Division. Incomplete forms shall be returned to the applicant. No license, certified applicator's identification card, or registered technician's identification card shall be issued, until completed forms and required fees are received by the Division.

History Note: Authority G.S. 106-65.27; 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; August 1, 1980.

02 NCAC 34 .0306

MAILING OF RENEWAL FORMS

On or before May 1 of each year the Division shall forward renewal forms to all holders of licenses and identification cards for their use in applying for renewal of said licenses, certified applicator's identification cards, and registered technician's identification cards.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1991; August 20, 1980; August 1, 1980.

02 NCAC 34 .0307

LICENSEE CERTIFICATION CARD

A licensee certification card shall be provided annually to each licensee at the time of the renewal of his license(s). The licensee certification card and the license of the card holder shall bear the same license number and license phase(s), and expire when the license expires. Each licensee certification card shall bear only one license number and not more than three license phases. The licensee certification card shall be carried on the person of the licensee at all times when performing any phase of structural pest control work. A licensee certification card shall be displayed upon demand to an inspector, the committee or its authorized representative, or the person for whom any phase of structural pest control work is being performed.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977.

A certified applicator's identification card shall be provided annually to each certified applicator at the time of the renewal of his certified applicator's identification card. If a certified applicator is employed by a licensee, his certified applicator's identification card shall bear his employer's license number and phase(s) and expire when his employer's license expires. Each such certified applicator's identification card shall bear only one license number, one company name, and not more than three license phases. The certified applicator's identification card shall be carried on the person of the certified applicator at all times when performing any phase of structural pest control work. A certified applicator's identification card shall be displayed upon demand to an inspector, the Committee or its authorized representative, or the person for whom any phase of structural pest control work is being performed.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 1, 1980.

(a) Certified applicators and licensees shall be certified for a five-year period. At the end of said five-year period, a certified applicator or licensee, at his discretion, may be recertified for another five-year period by choosing one of the following options:

(1) reexamination taken between January 1, prior to the expiration of the five-year recertification period, and June 30;

(2) for recertification prior to July 1, 2002: earning Continuing Certification Units of formal training approved by the Committee and received by the certified applicator during the five years immediately preceding the expiration date of his certification. The number of CCUs required shall be as follows:

(A) recertification in any one phase: five CCUs total, two of which must be solely applicable to the phase in which recertification is desired;

- (B) recertification in any two phases: seven CCUs total, two of which must be solely applicable to the first phase and two solely applicable to the second phase in which recertification is desired;
 - (C) recertification in all three phases: nine CCUs total, two of which must be solely applicable to the first phase, two solely applicable to the second phase, and two solely applicable to the third phase in which recertification is desired;
 - (D) licensees and noncommercial certified applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(2) of this Rule in each of three years of the five-year recertification period;
 - (E) commercial certified applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(2) of this Rule in at least two years of the five-year recertification period;
 - (F) continuing certification units shall not be carried forward beyond the five-year recertification period.
- (3) for recertification after July 1, 2002: earning Continuing Certification Units during the five years immediately preceding the expiration date of his certification. The number of CCUs required shall be as follows:
- (A) recertification in any one phase: 10 CCUs total, five of which must be solely applicable to the phase in which recertification is desired;
 - (B) recertification in any two phases: 15 CCUs total, five of which must be solely applicable to the first phase and five solely applicable to the second phase in which recertification is desired;
 - (C) recertification in all three phases: 20 CCUs total, five of which must be solely applicable to the first phase, five solely applicable to the second phase, and five solely applicable to the third phase in which recertification is desired;
 - (D) licensees and noncommercial certified applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(3) of this Rule in at least four years of the five-year recertification period;
 - (E) commercial certified applicators must earn at least one of the required continuing certification units established in Subparagraph (a)(3) of this Rule in at least three years of the five-year recertification period;
 - (F) continuing certification units shall not be carried forward beyond the five-year recertification period.
- (b) Licensees holding an inactive license shall be subject to the requirements of this Rule.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

02 NCAC 34 .0310 REGISTRATION FEE

Any registration fee paid for an employee shall not be refundable or transferred to another employee.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; August 1, 1980.

02 NCAC 34 .0311 RE-ISSUANCE FEE

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Repealed Eff. September 1, 1987.

02 NCAC 34 .0312 INFORMATION ON CERTIFIED APPLICATOR'S
IDENTIFICATION CARDS

(a) A certified applicator's identification card shall contain, but not be limited to, the following information:

- (1) name of certified applicator;
- (2) home address of certified applicator;
- (3) certification number and phase(s) in which certified;
- (4) employer and employer's address;
- (5) employer's license number and phase(s) if applicable;
- (6) age, weight, height, color of hair and eyes of applicator;
- (7) job classification of card holder;
- (8) issuance date, expiration date, and license year covered by card.

(b) If a certified applicator is employed by a licensee, his certified applicator's identification card shall bear the same license number as that of his employer and the certification phases held by his employer in which the applicator has become certified. Each certified applicator's card shall bear only one license number, one company name, and not more than three certification phases.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 1, 1980.

02 NCAC 34 .0313 REGISTERED TECHNICIAN'S IDENTIFICATION
CARDS/TRAINING MATERIALS

(a) A registered technician's identification card shall contain, but not be limited to, the following information:

- (1) name of registrant;
- (2) name of licensee or employer;
- (3) name of licensee's company;
- (4) address of licensee's company;
- (5) license number and phase(s) of licensee;
- (6) age, weight, height, color of hair and eyes of registrant;
- (7) job classification of card holder;
- (8) issuance date, expiration date, and license year covered by card.

(b) The registered technician's identification card and the license of the employer of the card holder shall bear the same license number and license phase(s). Each registered technician's identification card shall bear only one license number, one company name, and not more than three license phases.

(c) A licensee or noncommercial certified applicator applying for the issuance or renewal of a registered technician's identification card for his employee shall certify to the Division that the employee has completed employee training approved by the Committee in structural pest control work.

(d) All individuals who make application for the issuance, not renewal, of registered technician's identification cards after January 1, 1999, shall complete the following training, or its equivalent, before becoming eligible for the identification card:

(1) Introductory Training:

(A) Introductory training shall include completion of the workbook, Introductory Training for Registered Technicians; and

(B) A minimum of 24 hours of on-the-job training in applicable phases of structural pest control by the licensee, certified applicator, or registered technician having at least two years of experience.

(2) On-the-job training involving the methods and materials the employee will use in the day-to-day performance of his duties.

(3) The North Carolina Structural Pest Control Registered Technician School. A fee of twenty-five dollars (\$25.00) shall be charged for each employee attending the Registered Technician School.

(e) Training materials and records shall be made available for inspection during regular business hours upon request by the Division and shall be retained two years beyond the last date of the individual's employment.

(f) Introductory training shall be completed before the employee is permitted to mix or apply pesticides without the on-site supervision of a registered technician, certified applicator, or licensee.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 3, 1992; January 1, 1991; December 1, 1987.

02 NCAC 34 .0314

REVOCATION AND/OR SUSPENSION OF CARDS

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Repealed Eff. August 1, 1980.

02 NCAC 34 .0315

REPLACEMENT OF LOST CARDS AND LICENSES

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980;

Repealed Eff. September 1, 1987.

02 NCAC 34 .0316

NOTIFICATION OF CHANGE OF BUSINESS ADDRESS

For the purpose of the administration of the Structural Pest Control Law, the committee shall consider that the license and certified applicator's identification card are issued to the individual and that they are valid anywhere in the State of North Carolina; provided, however, that the licensee and certified applicator notify the committee secretary, in writing, within ten days of any change of business address on a form prescribed by the Division. If there is a change in the status of the employment of the licensee, his license number may be changed at the discretion of the committee.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980.

02 NCAC 34 .0317
OFFICE

LICENSE AND/OR CARD ISSUED TO ADDRESS OF HOME

The license and/or certified applicator's identification card shall be issued to the licensee and/or certified applicator at the address of his home office in North Carolina.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; January 1, 1989; August 1, 1980.

02 NCAC 34 .0318
APPLICATOR

CHANGE IN STATUS OF LICENSEE AND/OR CERTIFIED

(a) When there is a change in the status of a licensee in relation to the company or home office, the license number given to the original licensee of a company may be retained by that company or home office, at the discretion of the Committee, and upon written request within 10 days of such change.

(b) It shall be the responsibility of each licensee and certified applicator to inform the Committee secretary, in writing, on a form prescribed by the Division, and within 10 days, of any change in employment status, including but not limited to:

- (1) change from one employer to another;
- (2) change of business address;
- (3) change of company name;

- (4) change of telephone number;
- (5) sale of business;
- (6) discontinuance of business;
- (7) change of business location;
- (8) change of resident agent.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 3, 1992; January 1, 1991; January 1, 1989; August 1, 1980.

02 NCAC 34 .0319 FILING CALL OFFICE LOCATIONS

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; August 1, 1980;

Repealed Eff. July 1, 2000.

02 NCAC 34 .0320 DISPLAY OF LICENSE NUMBER ON SERVICE VEHICLE

The license number and phase(s) of each licensee in charge of an office or the company name of the licensee as specified in Rule .0326 shall be prominently displayed on both sides of all service

vehicles of that office, but shall not be required on vehicles used exclusively in selling structural pest control work. Vehicles requiring display of license number(s) and phase(s) or company name shall bear such display within 30 days after the date on which said vehicle(s) is required to be so identified. The license number and license phase(s) or company name displayed on said vehicles of an office shall be the same as the license number and license phase(s) or company name borne by the license or the person in charge of that office. All said vehicles of a company may bear the same license number even though the company may have more than one licensee or office; provided, however, notice is made in writing annually to the committee and the committee approves the license number used in such cases. The license number and license phase(s) or company name and all other letters displayed on said vehicles, shall be a minimum of two inches in height, in bold print on a background of contrasting color. The license number shall be designated as: North Carolina Pest Control License No. _____. This may be abbreviated to N.C. Pest Control Lic. _____.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; August 1, 1980.

02 NCAC 34 .0321 USE OF CERTIFICATION AND LICENSE NUMBERS IN
ADVERTISING

(a) If the license number is used in advertising or on letterhead stationery or business cards, it shall be designated as: North Carolina Pest Control License No. _____. This may be abbreviated to N.C. Pest Control Lic. _____.

(b) License numbers shall be given as follows:

- (1) 000P--license for the control of household pests other than wood-destroying organisms by any method other than fumigation;
- (2) 000W--license for the control of wood-destroying organisms such as termites, powder-post beetles, fungi, and other pests by any method other than fumigation;
- (3) 000F--license to fumigate;

(4) 000PWF--or any other combination of P, W, or F is used when the operator is licensed in more than one phase of structural pest control.

(c) Certification numbers shall be given as follows:

(1) CA0000P or CA000P--certification for the use of restricted-use pesticides for the control of household pests other than wood-destroying organisms by any method other than fumigation;

(2) CA0000W or CA000W--certification for the use of restricted-use pesticides for the control of wood-destroying organisms such as termites, powder-post beetles, fungi, and other pests by any method other than fumigation;

(3) CA0000F or CA000F--certification to fumigate using restricted-use pesticides;

(4) CA0000PWF or CA000PWF--or any other combination of P, W, or F is used when the person is certified to use restricted-use pesticides in more than one phase of structural pest control.

(d) The certified applicator's identification card number shall not be used in advertising or on vehicles or on letterhead stationery or on business cards.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1989; August 1, 1980.

02 NCAC 34 .0322

EXPIRATION OF LICENSES AND CARDS

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980;

Repealed Eff. January 1, 1991.

02 NCAC 34 .0323 DISPLAY OF LICENSE AT PLACE(S) OF BUSINESS

All structural pest control licenses shall be kept at the business address on the license. All licenses shall be subject to inspection by the Division anytime during regular business hours.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1991; August 1, 1980.

02 NCAC 34 .0324 DESIGNATION OF RESIDENT AGENT

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Repealed Eff. August 1, 1980.

- (a) The licensee shall be actively and personally engaged in the supervision of the structural pest control activities of any office to which his/her license is assigned.
- (b) If any office or individual employee of a license holder is not within 75 miles of the licensee's residence, by the nearest public road, the licensee shall submit to the Committee, in writing, information to show that he/she is, in fact, controlling, directing, and supervising the structural pest control activities of said office or employee.
- (c) In the event information submitted to the Committee by a license holder is insufficient for the Committee to determine that said holder is, in fact, controlling, directing, and supervising the structural pest control activities of his office or employees, the Committee shall require said holder to appear before it and set forth, in detail, information to show that he/she is, in fact, in charge of the structural pest control activities of his office or employees.
- (d) The information required in Paragraph (b) of this Rule shall be submitted within 10 days of employment of any individual to which Paragraph (b) of this Rule applies and at the time the license or identification card is issued, reissued, or renewed.
- (e) It shall be a violation of the rules of the Committee for any license holder to fail to adequately control, direct, and supervise the structural pest control activities of his/her office or employees.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

(a) The license certificate shall contain, but not be limited to, the following information:

- (1) name of licensee,
- (2) name of company,
- (3) address of home office,
- (4) license number and certification number and phase(s) of work in which holder is licensed and certified,
- (5) date of issuance and/or reissuance,
- (6) expiration date of license and certification,
- (7) period covered by license and certification,
- (8) signature of commissioner,
- (9) name and address of resident agent of nonresident license holder.

(b) Each license certificate shall bear only one license number, one company name, and not more than three license phases. All license phases of a license holder shall be issued in the same company name and on one license certificate.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; August 1, 1980.

No license certificate or certified applicator's identification card shall be issued to any person who is less than 18 years old.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977.

02 NCAC 34 .0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT
USED

(a) All required structural pest control records and pesticides and application equipment used by the licensee or noncommercial certified applicator shall be maintained at the office location to which the license or certified applicator's card is issued.

(b) Notwithstanding the requirements of Paragraph (a) of this Rule, a licensee may request permission, annually, from the Division, to maintain records, pesticides, and application equipment in a location other than the office location specified in Paragraph (a) of this Rule. In determining whether or not to grant such permission, the Division shall ensure that its ability to regulate the licensee will not be adversely affected by granting the request.

(c) All such records, pesticides, and equipment shall be made available for inspection during regular business hours upon request by the Division.

History Note: Authority G.S. 106-65.29;

Eff. August 1, 1980;

Amended Eff. July 1, 1998; January 1, 1989.

02 NCAC 34 .0329

EXPIRATION OF LICENSES AND CARDS

(a) Any licensee whose license expires and is subject to reexamination pursuant to G.S. 106-65.31(b) shall meet all the requirements for licensing prescribed in G.S. 106-65.26 and Rule .0302(a) and (c) of this Section.

(b) Any certified applicator whose certified applicator's identification card expires and is subject to reexamination pursuant to G.S. 106-65.31(a) shall meet all the requirements for certification prescribed in G.S. 106-65.26 and Rule .0302(b) and (c) of this Section.

History Note: Authority G.S. 106-65.29;

Eff. August 3, 1992.

02 NCAC 34 .0330

BRANCH OFFICE

(a) A licensee shall not establish more than two branch offices in addition to his/her home office.

(b) The licensee shall register each branch office with the Division prior to its establishment and at the time of renewal of the license on a form prescribed by the Division.

(c) At a minimum, the licensee shall provide the following information concerning the branch office at the time of registration and within 10 days of any change in the information:

- (1) The physical location or address of the branch office;
- (2) The mailing address of the branch office;
- (3) The telephone number of the branch office;
- (4) The location, branch office or home office, at which records of work and pesticides used shall be stored;
- (5) An outline of the company organization showing the lines of supervision and responsibility, the credentials of supervisor(s) (education, experience, certification status),

percentage of time devoted to supervision, methods and personnel conducting quality control; frequency of visits to the branch office and work sites by the licensee; and,

(6) The names of all employees performing work from the branch office.

(d) The licensee shall not establish any branch office more than 75 miles from the location of his/her home unless prior approval has been obtained from the Committee to locate a branch office more than 75 miles from the licensee's primary residence.

(e) Requests to operate a branch office more than 75 miles from the licensee's primary residence shall be made in writing to the Committee and shall include a plan of supervision in addition to the information in Paragraph (c) of this Rule. At a minimum, the plan of supervision shall include:

(1) Complete training program, including a schedule of training;

(2) A description of communication capabilities and procedures between the home office and branch office and between the consumer and the branch and home offices; and

(3) A plan to be followed in the event of emergencies such as fire, pesticide spills or other emergency.

(f) If, at any time, the Committee determines that any branch office is not being adequately supervised, the branch office shall be closed and shall not resume operation nor shall the licensee be permitted to open any new branch office until a satisfactory plan of supervision has been approved by the Committee or until the office is made a home office.

History Note: Authority G.S. 106-65.29;

Temporary Adoption Eff. October 2, 1999;

Eff. July 1, 2000.

SECTION .0400 - PUBLIC SAFETY

2 NCAC 34 .0401 PUBLIC SAFETY: STORAGE AND HANDLING OF CONTAINERS

(a) All pesticides shall be kept securely, in leakproof containers and labeled as specified in 2 NCAC 34 .0402.

(b) In no case shall containers of pesticide(s) be left where pets, domestic animals, children, or other unauthorized persons might remove or consume the contents.

(c) Food containers shall not be used as pesticide containers.

(d) When pesticides are stored or transported in or on a vehicle, a suitable storage space shall be provided thereon. Such space shall be constructed so as to maintain all pesticide containers in a manner which will prevent spills and shall be locked when the vehicle is unattended.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

02 NCAC 34 .0402 LABELING PESTICIDE CONTAINERS

(a) All pesticide concentrates and poison baits stored in containers other than original shall be prominently labeled to give the following information:

- (1) manufacturer's complete brand name of product;
- (2) percentage of each active ingredient;
- (3) EPA registration number;
- (4) signal word (as it appears on the pesticide label);
- (5) use classification, if classified, (as it appears on the label).

(b) All pesticide containers, except those described in Paragraph (a) of this Rule and application equipment of 15 gallon capacity or less, shall be prominently labeled to give the following information:

- (1) manufacturer's complete brand name of product;
- (2) the word "dilute" if diluted;
- (3) if diluted, kind of diluent (water, oil, dust, etc.);

(4) signal word (as it appears on the pesticide label).

(c) Pesticide containers labeled in accordance with U.S. DOT HM-181 shall be considered to be in compliance with this Rule, provided that the licensee or certified applicator can demonstrate that the container labeling is in compliance with HM-181.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

02 NCAC 34 .0403 FIRST AID

First aid equipment and first aid procedures, approved by the EPA or Federal Occupational Safety and Health Administration, shall be placed in all service vehicles and in all other areas where pesticides are stored or handled.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 1, 1980.

02 NCAC 34 .0404 NOTIFICATION

The licensee or the certified applicator and their employees shall reveal the name, active ingredient(s), formulation, and EPA Registration No. of any pesticide applied on any property, on request to:

- (1) the client or his authorized agent, the property owner or occupants;
- (2) a physician or other emergency medical personnel;
- (3) the Committee; or
- (4) the Division.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. April 1, 1999; August 1, 1980.

02 NCAC 34 .0405 FOLLOWING PESTICIDE LABEL

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

History Note: Authority G.S. 106-65.29;

Eff. August 1, 1980;

Amended Eff. January 1, 1989.

02 NCAC 34 .0406

SPILL CONTROL

Licenseses and certified applicators shall maintain adequate spill control materials, equipment, or a combination thereof, based upon the type and quantity of pesticides present, at all locations used to store pesticides and on all service vehicles used to store or transport pesticides.

History Note: Authority G.S. 106-65.29;

Eff. November 2, 1992;

Amended Eff. July 1, 1998.

02 NCAC 34 .0407

STORAGE REQUIREMENTS FOR PESTICIDES

- (a) Pesticides shall be stored to prevent leaking.
- (b) Pesticides shall be stored to facilitate inspections by the Division.
- (c) Pesticides shall be stored in labeled containers. The following information shall be clearly and prominently stated on each pesticide container:
 - (1) manufacturer's complete brand name of product;
 - (2) percentage of each active ingredient;
 - (3) EPA registration number;
 - (4) signal word;
 - (5) use classification (general use or restricted use).

Pesticides which are labeled in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the North Carolina Pesticide Law of 1971 and rules promulgated thereunder shall be deemed to have met the requirements of this Paragraph.

- (d) Pesticides (formulated products or dilutions) shall not be stored in any container that is specifically designed to contain either beverage, feed, food or medicine or any container which has previously been used for a beverage, feed, food or medicine.
- (e) Pesticides shall not be stored in a manner that could cause the contamination of beverages, eating utensils, feed, fertilizer, food, medicine, other pesticides, seed, tobacco, tobacco products or in a manner otherwise likely to result in accidental ingestion by humans or domestic animals.
- (f) Pesticides shall be stored in accordance with label recommendations and requirements.
- (g) Pesticides shall be stored in accordance with the label requirements of non-pesticide products which are stored in the same storage area as the pesticides.
- (h) When unattended, pesticides shall be stored to prevent unauthorized access.
- (i) Pesticides shall be stored in an area that does not accumulate water and that is dry and ventilated.
- (j) Pesticide storage areas shall be free of combustible materials such as gasoline, kerosene, or petroleum solvents other than those associated with pesticide application and debris such as waste paper, rags, or used cardboard boxes. Pesticide storage areas shall be separated from operations which present a fire hazard such as welding or burning. Care shall be taken to minimize the fire hazard when providing supplemental heating to the storage area.

History Note: Authority G.S. 106-65.29;

Eff. August 3, 1992.

02 NCAC 34 .0408
PESTICIDES

STORAGE REQUIREMENTS FOR RESTRICTED USE

- (a) In addition to the storage requirements set forth in Rule .0407 of this Section, restricted use pesticides shall be stored in accordance with the requirements set forth in this Rule.
- (b) Restricted use pesticides shall be stored so as to prevent unauthorized access to the pesticides. When unattended, the storage area shall be locked. A warning sign shall be posted beside all entrances to the storage area which states:

"PESTICIDE STORAGE," "AUTHORIZED PERSONNEL ONLY." "IN CASE OF EMERGENCY, CALL _____."

- (c) Restricted use pesticides shall be stored to prevent contact with water resulting from cleanup, the intrusion of storm waters, leaks, impounded or flowing waters, or any other water source which represents a likely potential for flooding.
- (d) Restricted use pesticides shall not be stored within 50 feet horizontally of any private water supply.
- (e) Restricted use pesticides shall not be stored within 100 feet horizontally of any public water supply.
- (f) A prefire plan shall be developed for each storage area. The plan shall be a description of the plans and procedures for management of fires involving pesticides. A suggested prefire plan format is the publication, "Pre-Planning and Guidelines for Handling Agricultural Fires," reprinted by the National Agricultural Chemicals Association:
 - (1) one copy of the plan approved by the fire department or emergency services office having jurisdiction shall be maintained in the office of the licensee or certified applicator for inspection by the Division;
 - (2) one copy of the plan shall be filed with the fire department or emergency services office having jurisdiction;
 - (3) a request shall be made in writing to the local fire department or emergency services office having jurisdiction for no less than an annual inspection of the storage area.
- (g) The licensee or certified applicator responsible for the storage area shall maintain a current inventory list by brand name and formulation of all pesticides, both general use and restricted use, stored in the storage area. An inventory list shall be considered current if it is updated every 30 days. A copy of the inventory list shall be maintained at a separate location from the storage area. The inventory list shall be made available to the Division upon request.
- (h) The licensee or certified applicator responsible for the storage area shall notify the Division immediately of any emergency such as a fire, spill, or unintended release of restricted use pesticides into the environment from the storage area, if the emergency poses a hazard or imminent danger to man, animals, aquatic life, or threat of substantial damage to property. Such notification of the Division does not preclude notification being given to the appropriate local fire department, emergency services office, or other state or federal agencies requiring such notification.

History Note: Authority G.S. 106-65.29;

Eff. August 3, 1992.

section .0500 - WOOD-DESTROYING ORGANISMS

02 ncac 34 .0501 WOOD-DESTROYING INSECTS: EXCLUDING SUBTERRANEAN
TERMITES

(a) Determining Active Infestations of Wood-Destroying Beetles. The licensee, certified applicator, or his/her representative(s) making the inspection for wood-destroying beetles shall each be responsible for determining the presence or absence of an active infestation(s). Before any work is performed for the treatment of wood-destroying insects under Paragraphs (a) and (b) of this Rule, the licensee or his or her employee shall provide the property owner or agent a written proposal including, in addition to that information in 02 NCAC 34 .0605, the name(s) of the wood-destroying insects(s) to be controlled, that part of the structure to be covered under the agreement (entire structure, understructure only, entire interior of the garage, etc.), and the basis on which the licensee, certified applicator, or his or her representative(s) determined the infestation to be active or inactive as set forth herein below:

(1) Powder Post Beetle(s) (Anobiidae, Bostrichidae and Lyctidae)

(A) The presence of frass, the color of fresh cut wood, will be acceptable as evidence of an active infestation of powder post beetles.

(B) The presence of holes alone or holes and dull colored frass shall not be acceptable evidence of an active infestation of powder post beetles except in cases where live larvae or pupae are found in wood members.

(C) If an active infestation of powder post beetles is found by the Division in any structure treated for said beetles, during or after the first complete adult beetle emergence period within 18 months of the treatment date, the licensee or certified applicator responsible for said treatment shall retreat the infested areas of the structure within 30 days of written notice from the Division. Retreatment shall be performed, upon request of the Division, in the presence of a structural pest control inspector.

(D) If a licensee provides a guarantee, warranty or service agreement in connection with a treatment for powder post beetles, the period of initial liability with regard to active infestation shall be 18 months from the original treatment date.

(2) Old House Borer (*Hylotrupes bajulus*). The presence of old house borer or oval exit holes with sawdust-like frass consisting of fine powder with tiny pellets in oval galleries in pine or other softwoods shall constitute evidence of an active infestation of the old house borer. The sound of feeding larvae of the old house borer without the presence of frass shall not constitute sufficient evidence of an active infestation.

(b) Identifying Other Wood-Destroying Insects. There are other species of wood-destroying insects which occur in structures. Before recommending treatment or selling a service for the prevention or control of wood-destroying insects, other than powder post beetles or old house borer, the licensee, certified applicator, or their representative(s) shall identify the wood-destroying insect(s) in question and inform the property owner or his authorized representative of the identity and habits of the wood-destroying insect(s) in question.

(c) Any reapplication of pesticides under this Rule shall be in accordance with the label of the pesticide used.

(d) Pesticide applications for the prevention of wood-boring beetles shall be performed only after informing the property owner or their authorized agent in writing of the biology and conditions supporting an infestation and survival of said insects. Such notice shall include an evaluation of the condition of the structure(s) to be treated and a statement as to whether or not such condition will support an infestation by wood-boring beetles.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 2002; July 1, 1998; January 1, 1989; August 1, 1980.

02 NCAC 34 .0502 PESTICIDES FOR SUBTERRANEAN TERMITE PREVENTION
AND/OR CONTROL

(a) Through June 30, 1999, any pesticide may be used for the prevention or control of subterranean termites provided that it bears an EPA-approved label for such use and the pesticide is applied according to the directions of its label.

(b) Effective July 1, 1999, only those products which bear an EPA-approved label for such use and for which the Committee has received the following information may be used for subterranean termite control:

(1) A statement from the pesticide registrant that the termiticide is primarily intended, either for use:

(A) as a supplement to or in combination with other treatment(s); or

(B) by itself, as the sole source of termite control; and

(2) For termiticides under Part (b)(1)(B) of this Rule, data to support all efficacy claims made on the label, labeling and any promotional materials distributed by the registrant or manufacturer.

(c) Effective July 1, 2002, only those products approved by the Committee based on the data submitted pursuant to Subparagraph (b)(2) of this Rule may be used for the prevention or control of subterranean termites. The Committee shall approve the product if the data submitted substantially supports the efficacy claims.

(d) Termiticides intended for use as a supplement to or in combination with other termiticides may not be used alone without first disclosing the registrants' recommendations to the property owner or agent.

(e) A list of approved termiticides may be obtained by writing the North Carolina Department of Agriculture and Consumer Services, Structural Pest Control Division, P.O. Box 27647, Raleigh, NC 27611 or by calling (919) 733-6100.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 18, 2002; July 1, 1998; August 1, 1980.

02 NCAC 34 .0503 SUBTERRANEAN TERMITE CONTROL: BUILDINGS AFTER
CONSTRUCTED

(a) The following standards and requirements apply to the treatment of a building for subterranean termite control after construction if the building has a basement or crawl space:

- (1) Access openings shall be provided to permit inspection of all basement and crawl space areas of a building and all open porches.
- (2) Clean up and remove all wood debris and cellulose material, such as wood, paper, and cloth, contacting soil in all crawl space areas. This excludes shavings or other cellulose material too small to be raked with the tines of an ordinary garden rake. Remove all visible stumps from all crawl space areas. Remove all visible form boards in contact with soil.
- (3) Remove all earth which is within 12 inches of the bottom edges of floor joists or within eight inches of the bottom edges of subsills or supporting girders, but not below footings of foundation walls. If foundation footings are less than 12 inches below the bottom edges of joists or subsills or supporting girders, a bank of soil 12 inches to 18 inches wide shall be left adjacent to footings for the purpose of support. Clearance shall be adequate to provide passage of a person to all crawl space areas of a building.
- (4) All visible termite tubes or tunnels on pillars, pilasters, foundation walls, chimneys, step buttresses, sills, pipes, and other structures below the sill line shall be removed.
- (5) Eliminate all wooden parts making contact with the building and soil, either outside or inside, as follows:
 - (A) No wood of any access opening shall be in contact with the soil.
 - (B) Where wood parts such as door frames, partition walls, posts, stair carriages, or other wood parts can be reasonably ascertained to be making direct soil contact through concrete or where there is evidence of termite activity or damage they shall be cut off above the ground or floor level and the wood removed from the concrete; and the hole shall be filled with concrete or covered with a metal plate, after the point of contact has been treated with a termiticide.
 - (C) Where wood parts such as vertical wood supports or other wood parts under a building or steps outside a building are not resting on solid masonry or concrete bases extending at least two inches above the soil surface or are in direct soil contact and such supports or steps are not removed, the supports and steps shall be cut off and set on a solid masonry or concrete footing extending at least two inches above the ground after the point of contact has been treated with a termiticide.
 - (D) When wood skirting and lattice work are suspended, there shall be at least a two-inch clearance between the top of the soil and the bottom edges of the wood skirting or lattice work. If the two-inch clearance is not acceptable to the property owner, it may be closed with solid masonry or concrete but a minimum clearance of one-fourth of one inch shall be provided between the masonry and wood.
 - (E) Where houses or decks are built on pressure treated wood pilings, pillars, or all-weather wood foundations, such pilings, pillars, and wood foundation members, including wood step supports, are not subject to Parts (a)(5)(A), (B), or (C) of this Rule.

(6) Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids in multiple masonry foundation and bearing walls and all voids created by their placement at and a minimum distance of four feet in all directions from such evidence. Porch foundation walls shall be drilled to a distance of three feet from the main foundation wall and the point of contact with any wooden members. Drill as follows:

(A) The distance between drill holes shall not exceed 16 lineal inches and holes shall be no more than 16 inches above the footing or for footings deeper than 16 inches, immediately above the lowest soil level.

(B) Test drill the main foundation wall behind any porch or slab area to determine if the porch or slab is supported by a wall whose placement creates a void between itself and the main foundation wall. If test reveals that a void exists, drill and treat all voids therein as specified in this Rule.

(7) Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids in all multiple masonry pillars, pilasters, chimneys, and step buttresses associated or in contact with such evidence, and any void created by their placement. Drill as follows:

(A) The distance between drill holes shall not exceed 16 lineal inches and shall be no more than 16 inches above the footing or for footings deeper than 16 inches, immediately above the lowest soil level.

(B) Drilling is not required if solid concrete masonry footings of pillars, pilasters, chimneys, or step buttresses extend eight inches or more above top of soil surface.

(8) Where concrete slabs over dirt-filled areas are at the level of, above the level of, or in contact with, wood foundation members, treat dirt-filled areas with a termiticide as follows:

(A) Drill vertically three-eighths of one inch or larger holes in the slab, no more than six inches from the building foundation, at no more than 12-inch intervals and treat soil below slab from the bottom of the slab to the top of the footing; or

(B) Drill horizontally three-eighths of one inch or larger holes in the foundation wall of the concrete slab, no more than six inches from the building foundation, every 16 vertical inches starting immediately below the bottom of the slab and rod treat all soil adjacent to building foundation from the bottom of the slab to the lowest outside grade.

(9) Trench or trench and rod treat soil to establish a continuous termiticide barrier in the soil adjacent to, but not more than six inches from, all pillars, pilasters, chimneys, pressure treated wood supports, and step buttresses; inside of foundation walls; outside of foundation walls; the outside of foundation walls of concrete slabs over dirt-filled areas, and the entire perimeter of a slab foundation wall from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. The trench shall be

no less than six inches in depth or to the bottom of the footing, whichever is less. Where outside concrete slabs adjacent to the foundation prevent trenching of soil, drill three-eighths of one inch or larger holes, not more than 12 inches apart and within six inches of the foundation wall, through slabs or through adjoining foundation wall, and rod treat soil below slabs as indicated above to establish a continuous termiticide barrier at all known points of entry. The soil immediately around pipes and other utility conduits making contact with the structure shall be treated.

(10) Where stucco on wood or similar type materials, including extruded or expanded rigid foam insulation or similar materials, extend to or below grade, trench soil to a depth below and under the edge of the stucco or similar type materials and treat soil to establish a continuous termiticide barrier in the soil. After the soil has been treated, a masonry barrier wall may be erected to hold back the soil from making direct contact with the stucco or similar type materials. Where outside slabs on grade adjacent to foundation prevent trenching of soil, drill three-eighths of one inch or larger holes through slabs within six inches of the foundation wall, or through adjoining foundation wall, not more than 12 inches apart and rod treat soil below slabs. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(11) Paragraph (b) of this Rule shall be followed if applicable to basement or crawl space construction.

(b) The following standards and requirements apply to the treatment of a building for subterranean termite control after construction if the building has a slab-on-ground construction:

(1) Treat soil to establish a continuous termiticide barrier in, under, and around, all traps and openings in the slab.

(2) Drill vertically three-eighths inch or larger holes, at all visible or known expansion and construction joints, cracks, and crevices in slab and around all utility conduits in the slab at no more than 12-inch intervals and rod treat soil below slab to establish a continuous termiticide barrier from the bottom of the slab to a depth of 30 inches or to the top of the footing, whichever is less, at all known points of entry. Where wooden structural members are in contact with concrete or masonry floors which have joints or cracks beneath the wooden structural members, including wall plates in utility or storage rooms adjoining the main building, the concrete or masonry shall be drilled and treated in order to achieve treatment of the soil beneath them. As an exception, expansion and construction joints at the perimeter of the exterior wall may be rod treated by drilling through the foundation wall at no more than 12-inch intervals directly below the bottom of the slab.

(3) Paragraph (a) of this Rule shall also be followed, where applicable.

(c) Reapplication of Pesticide(s) to a Structure Previously Treated for Subterranean Termite Control:

(1) A reapplication of termiticide is required if soil test by the Division reveals that the soil is deficient in the termiticide which was applied to the soil.

(2) Any reapplication of pesticides under this Rule shall be in accordance with the label of the pesticide used.

(d) A licensee may enter into a written agreement for the control or prevention of subterranean termites in a building after it has been constructed without having to abide by Paragraphs (a) and (b) of this Rule provided that:

(1) The licensee has written proof that he or his authorized agent treated the entire building for subterranean termites at the time of its construction as required in 02 NCAC 34 .0505 or 02 NCAC 34 .0506 (or comparable rules in effect at the time of treatment); and

(2) A written agreement is issued in compliance with 02 NCAC 34 .0605.

(e) Paragraphs (a)(3), (a)(6) through (a)(11) and (b) of this Rule do not apply to subterranean termite treatment performed using termite bait(s) labeled for protection of the entire structure when the licensee provides a warranty for the control of subterranean termites on the entire structure.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980;

Temporary Repeal Eff. August 24, 1987 for a period of 30 days to expire on September 22, 1987;

Temporary Repeal Expired Eff. September 22, 1987;

Amended Eff. January 1, 1989;

Temporary Amendment Eff. January 10, 1997;

Temporary Amendment Expired Eff. October 31, 1997;

Amended Eff. July 1, 2010; August 1, 2002; July 1, 1998.

02 NCAC 34 .0504
AREAS

REPORTING DAMAGE: INFESTATION: UNINSPECTED

- (a) When inspecting for wood-destroying insects or wood-decay organisms or both, all wood members of a structure which can be ascertained by visual inspection to be damaged shall be promptly brought to the attention of the property owner or his authorized agent and shall also be indicated in writing, in the contract or agreement, by the licensee or his authorized agent.
- (b) The licensee or his authorized agent shall indicate in writing, in the contract or agreement, whether or not he is responsible for the replacement, repair, or reenforcement of any or all of the wood members which were ascertained by visual inspection to be damaged.
- (c) Any visible evidence of infestation of wood-destroying organisms in, on, under, or in contact with, a structure shall be promptly brought to the attention of the property owner or his authorized agent and shall be specified, in writing, in the contract or agreement, by the licensee or his authorized agent.
- (d) The licensee or his authorized agent shall indicate and describe, in writing, on the contract or agreement, any area(s) of the building or crawl space of the building which have not been inspected and give the reasons for not making such inspection(s).

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; August 1, 1980.

02 NCAC 34 .0505
UNDER CONST

SUBTERRANEAN TERMITE PREVENTION/RES BLDGS

- (a) All treatments performed pursuant to this Rule shall be performed at the label recommended rate and concentration only.
- (b) The following standards and requirements shall apply to the treatment of a building for subterranean termite control during construction if the building has a basement or crawl space:

(1) Establish a vertical barrier in the soil by trenching or trenching and rodding along inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, establish a vertical barrier in the soil by trenching or trenching and rodding adjacent to the outside of the main foundation wall with a termiticide from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing and not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc., attached to the building. Treatment shall be performed before slab is poured, but after fill material or fill dirt has been spread.

(4) Establish a horizontal termiticide barrier in the soil under the entire surface of floor slabs, such as basements, porches, entrance platforms, garages, carports, breezeways, sun rooms, etc. The treatment shall be performed before slab is poured but after fill material or fill dirt has been spread.

(5) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and construction joints and plumbing and utility conduits, at their point of penetration of the slab or floor or, for crawl space construction, at the point of contact with the soil.

(6) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by 02 NCAC 34 .0503(a) or (b): Except that; the buyer of the property or his authorized agent may release the licensee from further treatment of slab areas under this Rule provided such release is obtained in writing on the Subterranean Termite Sub-Slab Release Form provided by the Division, which shall contain the name of the builder, address of property, identification of the slab areas not treated, name and address of the structural pest control company and shall be signed by the company representative and the home buyer. This form may be obtained by writing the North Carolina Department of Agriculture and Consumer Services, Structural Pest Control Division, 1001 Mail Service Center, Raleigh, NC 27699-1001 or by calling (919) 733-6100.

(c) Slab-on-Ground Construction. All parts of Paragraph (a) of this Rule shall be followed, as applicable, in treating slab-on-ground construction.

(d) All treating requirements specified in this Rule shall be completed within 60 days following the completion of the structure, as described in Subparagraph (b)(2) of this Rule.

(e) Paragraphs (b) and (c) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s) labeled for protection of the entire structure when the licensee provides a warranty for the control of subterranean termites on the entire structure.

(f) Paragraphs (b) and (c) of this Rule shall not apply to subterranean termite treatment performed using EPA registered topically applied wood treatment termiticides labeled for the protection of the entire structure when the licensee applies the material according to labeled directions and provides a warranty for the control of subterranean termites on the entire structure.

(g) No later than the date of the completion of any treatment performed under this Rule, the licensee or his employee shall place a durable sticker/label, no less than three inches square, on the meter base, circuit breaker box or inside surface of kitchen cabinet door or other readily noticeable location providing, at a minimum, the following information:

- (1) The statement: "This structure was treated for the prevention of subterranean termites. A warranty has been issued to the builder. If you did not receive your copy of this warranty at closing, contact your builder or the company below for additional warranty information." in boldface type;
- (2) Name, address and telephone number of the company performing the treatment; and
- (3) Date of final treatment.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980;

Temporary Repeal Eff. August 24, 1987 for a period of 30 days to expire on September 22, 1987;

Temporary Repeal Expired Eff. September 22, 1987;

Amended Eff. July 1, 2004; August 1, 2002; April 1, 2001; July 1, 1998; January 1, 1991; January 1, 1989.

02 NCAC 34 .0506 mIN REQUIRE/SUBTERRANEAN TERMITE
PREV/COMMERCIAL BLDGS UNDER CONST

(a) All treatments performed pursuant to this Rule shall be performed at the label recommended rate and concentration only.

(b) Minimum Treatment Requirements:

(1) Establish a vertical barrier in the soil by trenching or trenching and rodding along inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the grade to the bottom of the footing or a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, establish a vertical barrier in the soil adjacent to the outside of the main foundation wall by trenching or trenching and rodding with a termiticide from the top of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing and not below the bottom of the footing. Trench shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage systems present a hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage system.

(3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc. Treatment shall be performed before slab is poured but after fill material or fill dirt has been spread.

(4) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and construction joints and plumbing and utility conduits, at their point of penetration of the slab of floor, or for crawl space construction, at the point of contact with the soil.

(5) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by 02 NCAC 34 .0503(a) or (b).

(c) Paragraph (b) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s) labeled for protection of the entire structure when the licensee provides a warranty for the control of subterranean termites on the entire structure.

(d) Paragraph (b) of this Rule shall not apply to subterranean termite treatments using EPA registered topically applied wood treatment termiticides labeled for the protection of the entire structure and the licensee applies the material according to labeled directions and provides a warranty for the control of subterranean termites on the entire structure. When foundation areas contain no wood or cellulose components and the wood treatment termiticide cannot be applied according to label directions then applications specified in Paragraph (b) or (c) of this Rule would be required.

History Note: Authority G.S. 106-65.29;

Eff. January 1, 1991;

Amended Eff. August 1, 2002; April 1, 2001; July 1, 1998.

02 NCAC 34 .0507 APPLICATION EQUIPMENT

Effective July 1, 1998, all application equipment used to apply pesticides for wood-destroying organisms, other than compressed air sprayers of less than five-gallon capacity shall:

- (1) have all hoses securely attached to the tank, pump, and other equipment components;
- (2) be constructed so that the output pressure can be adjusted to meet the requirements of the pesticide being applied; and
- (3) except for in-line injection systems, be equipped with a functional bypass flow agitation device.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1998.

02 NCAC 34 .0508 WOOD-DECAY FUNGI

(a) The following conditions shall be considered satisfactory evidence of and necessary conditions for an active wood-decay fungus infestation:

(1) Moisture content of the wood sufficient to support the growth of wood-decay fungus, as determined through the use of a moisture meter; and

(2) The presence of mycelial growth or characteristic damage from wood-decay fungi.

(b) A moisture content in the wooden members of a structure in excess of 20 percent of a dry weight basis shall be recognized as an indication that some steps should be taken to control the moisture level of the affected member(s).

(c) Pesticide applications for the control or prevention of wood-decay fungi may only be performed after informing the property owner or their authorized agent in writing of the biology and conditions supporting the growth of wood-decay fungi. Such notice shall include an evaluation of the condition of the structure, including the moisture content of the wooden members to be treated as determined with a moisture meter, and a statement as to whether or not such condition(s) will support the growth of wood-decay fungus.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1998.

02 NCAC 34 .0509

PHYSICAL BARRIERS FOR TERMITE CONTROL

(a) Physical barriers approved by the Structural Pest Control Committee may be used for the prevention or control of subterranean termites.

(b) Physical barriers shall be installed in accordance with the manufacturers' recommendations by personnel certified by the manufacturer, if required or recommended by the manufacturer, or specifically trained in the installation of the approved physical barrier.

(c) Where all possible subterranean termite entry points can be sealed with the approved physical barrier the subterranean termite treatment shall not be subject to 2 NCAC 34 .0503, for an existing structure, or 2 NCAC 34 .0505 or .0506 for new construction.

(d) Where it is not possible to seal all possible entry points with the physical barrier, all unsealed entry points shall be treated with termiticide in accordance with 2 NCAC 34 .0503, .0505 or .0506 as applicable; except that, such termiticide applications may be waived by the property owner on the Official NC Waiver of Minimum Requirements.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 2000.

SECTION .0600 - WOOD-DESTROYING ORGANISMS AGREEMENTS

02 ncac 34 .0601 AGREEMENTS

(a) Before any treatment is started, the licensee or his authorized agent shall execute, and furnish to the property owner or his authorized agent, a written proposal informing the property owner or his authorized agent, as to the type and quality of work that is to be performed. The written proposal shall contain that information specified in 02 NCAC 34 .0605 and, upon written acceptance by the property owner or authorized agent, shall suffice as the written agreement, required by Paragraph (b) of this Rule.

(b) The licensee or his authorized agent shall, within 14 days after beginning a treatment, offer to execute a written agreement with the property owner or his authorized agent in conformance with 02 NCAC 34 .0605. During the 14 day period, the Division will use the written proposal as its standard of enforcement. Following the 14 day period and in the absence of an executed written agreement, the Division will apply 02 NCAC 34 .0503, .0505 or .0506, as applicable, as its standard of enforcement.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980;

Temporary Amendment Eff. October 15, 1987 for a Period of 180 Days to Expire on April 12, 1988;

Temporary Amendment Expired Eff. January 19, 1988;

Amended Eff. August 1, 2002; August 3, 1992; January 1, 1989.

02 NCAC 34 .0602 WOOD-DESTROYING INSECT AND OTHER ORGANISM
REPORTS

(a) Any written statement as to the presence or absence of wood-destroying insects or organisms or their damage in buildings or structures for sale shall be on the WDIR 100. An incomplete or inaccurate Wood-Destroying Insect Information Report shall not be acceptable and the issuance of such a report is grounds for disciplinary action by the Committee. No Wood-Destroying Insect Information Report or Wood-Destroying Organism Report shall be issued before an inspection of the building or structure is made. Each Wood-Destroying Insect Information Report issued by a licensee shall be kept in the files of said licensee and made available for inspection upon request of the Division.

(b) If during the inspection of a structure, a licensee or his authorized agent finds live subterranean termites or visible evidence of past or present infestation of subterranean termites (such as tubes, damage, cast wings, infested wood scraps, or other cellulose materials, etc.) in the structure and there is no visible evidence that said structure has been treated for subterranean termites, the licensee shall treat said structure for subterranean termites prior to the issuance of a Wood-Destroying Insect Information Report on the structure which states that the structure is free from subterranean termites or that a previous infestation is inactive.

(c) If a treatment is performed in conjunction with a WDIR, a copy of the written agreement and warranty, if any, shall be included with or attached to and become a part of the WDIR.

(d) A licensee, certified applicator, or registered technician shall not remove or destroy, or cause the removal or destruction of, any wood-destroying organism evidence discovered in, on, under, or in or on debris under a structure inspected pursuant to this Rule except as required by Paragraph (b) of this Rule.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 3, 1992; September 1, 1987; August 1, 1980;

Temporary Amendment Eff. January 10, 1997;

Temporary Expired Eff. October 31, 1997;

Amended Eff. July 1, 1998.

02 NCAC 34 .0603 WAIVERS

(a) If there are any deviations or omissions from the minimum requirements for the control or prevention of wood-destroying organisms or pests, as set forth in these Rules, each deviation or omission shall be fully explained, in writing, prior to any work being done, on the waiver form(s) prescribed by the Committee.

(b) The waiver must be prepared in accordance with Rule .0601 of this Section and, upon written acceptance by the property owner, shall become a permanent part of the written agreement.

(c) An incomplete waiver form shall not be accepted. A retroactive waiver form may be accepted if mutually agreed upon by the structural pest control licensee and the homeowner.

History Note: Filed as a Temporary Amendment Eff. October 15, 1987 for a Period of 180 Days to Expire

on April 12, 1988;

Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980;

Temporary Expired Eff. January 19, 1988;

Amended Eff. November 2, 1992; January 1, 1989.

(a) A duplicate of each written agreement and waiver (if applicable) for the control or prevention of any wood-destroying organism shall be kept by the licensee for a minimum of two years beyond the expiration date of the written agreement. The duplicate of each written agreement shall contain, in addition to the information specified under 02 NCAC 34 .0605, the following:

- (1) EPA approved brand name of pesticide used;
- (2) Names of all employees who applied pesticide;
- (3) Information required by EPA;
- (4) For restricted use pesticides, the concentration and approximate total volume of each pesticide applied. For restricted use pesticides, this information, along with the information required by Subparagraphs (a)(1) and (2) of this Rule shall also be included on the customer's copy of the written agreement; and

(5) In addition, for all treatments performed pursuant to 02 NCAC 34 .0505 or .0506, the following records shall be made and maintained:

- (A) the date of each termiticide application;
- (B) the portion or portions of the structure treated;
- (C) the approximate volume of termiticide applied during each treatment; and
- (D) the concentration at which the termiticide is applied.

(b) A duplicate of each wood-destroying insect or wood-destroying organism report shall be kept by the licensee for a minimum of two years beyond the date of issuance.

(c) Noncommercial certified applicators shall maintain the following records for two years beyond the last date of treatment:

- (1) EPA approved brand name of all pesticides used;
- (2) Concentration and approximate total volume of pesticide applied;
- (3) Names of all employees that applied pesticide;

- (4) Target pest;
- (5) Site of application;
- (6) Date of application; and
- (7) Information required by EPA.

(d) If the pesticide used to control any wood-destroying organism requires or recommends monitoring or inspecting for the pest to be controlled, the licensee, certified applicator, or their employees shall make and maintain records of all such inspection or monitoring activities. Such records shall be made available for inspection as provided for in 02 NCAC 34 .0328.

(e) For all treatments performed pursuant to 02 NCAC 34 .0505 or .0506, the licensee shall place, or cause to be placed, a record of treatment in the permit box or, if no box exists, with the building permit on the job site. The treatment record shall be on a form prescribed by the Division and shall include at least the following information:

- (1) Date of application(s);
- (2) Specific area(s) treated during each application;
- (3) Name of termiticide applied;
- (4) Approximate volume of termiticide applied; and
- (5) Date of final treatment.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 3, 1992; January 1, 1989; August 1, 1980;

Temporary Amendment Eff. January 10, 1997;

Temporary Amendment Expired Eff. October 31, 1997;

Amended Eff. July 1, 2004; August 1, 2002; July 1, 1998.

(a) All agreements for the control or prevention of wood-destroying organisms in existing structures shall be in writing and shall include the following:

- (1) Date property was inspected and full name of the inspector;
- (2) Exact location of property inspected or treated;
- (3) Name and address of the property owner or his authorized agent;
- (4) Name and address of the company proposing or performing the treatment;
- (5) License number and phase(s) of the licensee and under whose license the work is to be performed;
- (6) Signature of licensee or his authorized agent;
- (7) A foundation diagram or, if required or recommended by the label of the pesticide used, a site plan of the structure(s) or portions of such structure(s) inspected. The diagram or site plan shall indicate:
 - (A) The location of individual water sources;
 - (B) Any visible evidence of wood-destroying organism infestation;
 - (C) Whether the infestation is active or inactive;
 - (D) The location of any visibly damaged timbers;
 - (E) Portions of the structure treated and not treated;
 - (F) The approximate number and proposed location(s) of bait or monitoring device placements, if applicable. Upon completion of the installation the property owner or agent shall be provided with a diagram or site plan showing the actual number and locations of all stations; and
 - (G) For treatment of wood-decay fungus infestations, the location and result of all moisture meter readings obtained pursuant to 02 NCAC 34 .0508;
- (8) The date upon which the written agreement is entered into and the period of time covered by the written agreement;
- (9) The wood-destroying organism(s) to be controlled or prevented and the terms of the service agreement or warranty to be issued, if any;

- (10) Whether or not reinspections are to be made and, if so, approximate time interval between, and renewal fees for same;
- (11) Conditions under which retreatments will be made;
- (12) Total price to be charged for treatment service and for repairs or excavations, where such are to be performed;
- (13) The written agreement, waiver (if applicable), and Wood-Destroying Insect Report or Wood-Destroying Organism Report, shall not show or include the address and telephone number of any licensee's representative or employee other than the address and telephone number of those specified in Subparagraphs (a)(4) and (5) of this Rule;
- (14) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the warranty or written agreement will be covered by a bond of any type;
- (15) If the performance of the work is guaranteed by a bond, the agreement shall set forth those performance guarantees in wording identical to that in the bond itself;
- (16) 02 NCAC 34 .0501(a) shall also be followed;
- (17) Whether the written agreement or warranty may be transferred to subsequent owners of the property and the terms of any such transfer.
 - (b) A structure or structures covered by a written agreement or warranty for wood-destroying organism(s) treatment shall not knowingly be placed under an additional written agreement or warranty for the same treatment while the first written agreement or warranty is still in effect without first obtaining a separate written acknowledgment of such signed by the property owner or authorized agent.
 - (c) When periodic reinspections or retreatments are specified in written agreements for the control or prevention of wood-destroying organisms, the licensee shall issue to the property owner or his authorized agent, after each reinspection or retreatment, a signed report of each reinspection or retreatment showing the condition of the property with respect to the presence or absence of wood-destroying organisms. A record of such reinspections and retreatments shall be kept in the file of the licensee. Such reports shall be subject to inspection by the enforcement agency or committee.
 - (d) All agreements for the control or prevention of wood-destroying organisms in buildings under construction shall be in writing and shall include the following:
 - (1) Date of final treatment and period of time covered by the written agreement;
 - (2) Exact location of the treated property;

- (3) Name and address of the property owner or his authorized agent;
- (4) Name and address of the licensee;
- (5) License number and phase(s) of the licensee and full name of company licensee represents;
- (6) Signature of licensee or his authorized agent;
- (7) The wood-destroying organism(s) to be controlled or prevented and the terms of the warranty to be issued, if any;
- (8) Whether or not reinspections are to be made and, if so, approximate time interval between, and renewal fees, if any, for same;
- (9) Conditions under which retreatments will be made;
- (10) Total price to be charged for treatment service;
- (11) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the warranty or written agreement will be covered by a bond of any type;
- (12) If the performance of the work is guaranteed by a bond, the agreement shall set forth those performance guarantees in wording identical to that in the bond itself;
- (13) 02 NCAC 34 .0604(a) shall also be followed;
- (14) Whether the written agreement or warranty may be transferred to subsequent owners of the property and the terms of any such transfer;
- (15) If a warranty is issued on a treatment for prevention of subterranean termites in new construction, the licensee shall provide to the builder (or owner, if known at time of treatment) a one-year transferable warranty, which contains, as a minimum, the following terms and conditions:
 - (A) The warranty shall cover retreatment of the structure;
 - (B) The warranty period shall begin on or after the day the pretreatment is completed;
 - (C) The PCO must offer the homeowner the opportunity to renew the warranty on the same terms and conditions the licensee offers renewals of the regular termite treatment contracts for four consecutive years;
 - (D) The warranty must be transferable to any owner within either the original one-year warranty period, or within any of the four years specified in Part (d)(15)(C) of this Rule, by

notification from the new or the old owner to the licensee or his agent. Failure of the homeowner to renew any one year relieves the PCO of any future responsibility for renewal based upon Parts (d)(15)(C) and (D) of this Rule. The renewal warranty must, as a minimum, extend retreatment, but may by mutual agreement, be extended or enlarged; and

(E) Neither the licensee's original warranty nor any extension thereof shall extend to:

(i) Violations of the Standard Builder's Code by the owner/builder which occur after the completion of the pretreatment;

(ii) Additions not treated by the licensee or his representative;

(iii) Infestations originating or thriving as a result of remodeling, landscaping or other alteration which occurs after pretreatment is complete and which entails considerable disturbance of the treated soil area or would otherwise enable termites to avoid or circumvent the treatment; and

(iv) Infestations originating or thriving as a result of building defects, including but not limited to water leaks, excessive moisture or structural defects, of which the property has been notified and given the opportunity to correct.

(e) If the licensee provides preventive treatment(s) for subterranean termites to a structure(s) for someone such as a builder or construction company who is constructing the building(s) for someone else or with the purpose of offering the building(s) for sale, the licensee may enter into a single master agreement with the builder to provide the preventive treatment(s) for subterranean termites. This single master agreement shall include the following:

(1) Name and address of the builder or his authorized agent;

(2) That information required in Subparagraphs (d)(4) through (15) of this Rule.

(f) When a structure is treated under an agreement with a builder, the licensee shall:

(1) Following completion of the treatment and upon notification by the builder or buyer, issue a written agreement to the initial buyer. The written agreement issued to the buyer shall include the following:

(A) Name and address of the builder or his authorized agent as it appears on the builder's agreement;

(B) That information required in Subparagraphs (d)(1) through (9), (11), (14), and (15) of this Rule. The builder shall be issued a copy of any written agreement issued the buyer.

(2) Maintain a record of each treatment performed on each structure to include the following information:

- (A) Location of the structure treated;
- (B) Date each treatment was performed;
- (C) The portion(s) of the structure treated.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 20, 1980; August 1, 1980;

Temporary Amendment Eff. October 15, 1987 for a period of 180 days to expire on April 12, 1988;

Temporary Amendment Expired Eff. January 19, 1988;

Amended Eff. August 3, 1992; January 1, 1991; January 1, 1989;

Temporary Amendment Eff. January 10, 1997;

Temporary Amendment Expired Eff. October 31, 1997;

Amended Eff. August 1, 2004; August 1, 2002; July 1, 1998.

SECTION .0700 - HOUSEHOLD PESTICIDES

02 ncac 34 .0701 PRECAUTIONS

(a) Household pest control servicemen's kits which contain pesticides shall not be left where pets, domestic animals, children, or other unauthorized persons might remove, contact, or consume the contents.

(b) When "tamper-proof" or "tamper-resistant" bait stations are required by the label for acutely toxic rodenticidal baits, each bait station shall be locked and adequately marked with the skull and crossbones and the word "poison," both at least one inch high, and the name, address, and telephone number of the licensee, and name of the company the licensee represents.

(c) When "tamper-proof" or "tamper-resistant" bait stations are required by the label of rodenticides other than those in Paragraph (b) of this Rule, each bait station shall be marked with the EPA approved brand name and the signal word from the label.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980.

02 NCAC 34 .0702 HOUSEHOLD PEST CONTROL

(a) All fogging operations shall be conducted in accordance with the labeling of the pesticide applied.

(b) All space and residual pesticide applications for the purpose of controlling household pests shall be performed in accordance with the labeling of the pesticide applied.

(1) In areas where treatment is to be made, all open food or foodstuffs, or drug commodities and all utensils or equipment used in the preparation of food or drugs shall be adequately covered or removed before the application of space sprays, or complete, or spot surface residual sprays, to insure against contamination by pesticidal materials, except where such pesticidal materials are approved by EPA and State of North Carolina label registrations for use without such precautions.

(2) Space sprays, or complete surface residual sprays, shall not be applied unless the structure or that portion of the structure to be treated is free of occupants and pets during the treatment and subsequent ventilation period(s), except where such pesticidal materials are approved by EPA and State of North Carolina label registration for use without such precautions.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1989; August 1, 1980.

(a) Written records on the treatment for the control of all household pests shall be maintained by the licensee and made available for inspection at any time during regular business hours upon request from the Division. Such records shall include the following information:

- (1) Name(s) and address(es) of the property owner(s) or his authorized representative(s);
- (2) Name and address of company represented by the certified applicator or licensee or their authorized representatives and the license number of licensee responsible for the treatment;
- (3) Address(es) of property(ies) treated, type(s) of treatment(s), and date(s) treatment(s) performed;
- (4) Common name(s) of pest(s) to be controlled or covered by the initial agreement or any subsequent treatments;
- (5) EPA approved brand name of pesticide used;
- (6) Information required by EPA;
- (7) Name of licensee, certified applicator, or registered technician making the application; and
- (8) For restricted use pesticides, the information required by Subparagraphs (a)(5), (a)(6), and (a)(7) of this Rule shall also be included on the customer's copy of the written agreement or service record.

(b) Noncommercial certified applicators shall maintain and make available for inspection the following records of pesticides applied:

- (1) EPA approved brand name of all pesticides applied;
- (2) Target pest(s);
- (3) Site of application;
- (4) Date of application;
- (5) Name of certified applicator or registered technician making the application; and

(6) Information required by EPA.

(c) Records must be retained for two years beyond the last date of treatment.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 2002; July 1, 1998; January 1, 1989; August 20, 1980; August 1, 1980.

SECTION .0800 - FUMIGATION

02 NCAC 34 .0801 SPOT FUMIGATION REQUIREMENTS

(a) Any pesticide, used as a spot fumigant in gassing rodents, shall not be considered a fumigant under the provisions of these rules and regulations, provided that the pesticide shall be applied in such minimal quantities and in such locations that it, or the gases from it, will not harm human beings or domestic animals. All necessary precautions shall be taken with the pesticide and these shall include the following recommended procedures as outlined by the manufacturer.

(b) Spot Fumigation. The requirement of posting a guard or watchman as specified in Rule .0810(c)(1) of this Section shall not apply to spot fumigation, or during the fumigation of railroad box cars, trucks, aircraft, vaults, common carriers and similar structures of limited space, or when using pure chloropicrin, provided the structure or enclosed space can be adequately locked, unless deemed necessary by the certified applicator or the licensed structural pest control operator in charge of the fumigation operation. This does not relieve the certified applicator or the licensed structural pest control operator in charge of the fumigation operation, from full responsibility in connection with all other safety precautions and requirements.

(c) Rules .0805(a), (b), (c), and (d) of this Section do not apply to the use of fumigants to control insects, rodents, and other pests outside of structures or buildings, or to spot treatment within structures or buildings or to fumigation of railroad box cars, trucks, aircraft, special rooms, tanks, vaults, chambers, and similar structures of limited size where the fumigator remains outside the space being fumigated and is not exposed to toxic concentrations of the fumigant(s) used. These exemptions do not, however, relieve the individual in charge of the fumigation from full responsibility in connection with all safety precautions and requirements.

(d) Prior to the application or release of fumigant(s), suitable warning signs shall be securely and conspicuously posted at the ground level on the outside of all doors and entrances to the structure; and at least one warning sign on the outside of each side of the structure or enclosed space to be fumigated; and outside on all doors and entrances, to enclosed space(s) or common carriers to be fumigated. Such warning signs shall not be less than 10 inches by 12 inches, printed, painted or made in indelible red ink or paint, insoluble in water, upon a white background. All lettering on the sign shall be not less than one-fourth of one inch high.

(e) Warning signs for outside of structure(s) or enclosed space(s) shall be as follows:

(Skull
(Skull

DANGER

And
And

FUMIGATING WITH

Crossbones)
Crossbones)

(Name of Fumigant)

DEADLY POISON

ALL PERSONS ARE WARNED TO KEEP AWAY

Name of Fumigator _____

Address _____

Day Telephone Number _____

Night Telephone Number _____

The words "Danger" and "Deadly Poison" shall be in block lettering at least two inches high. The name of the fumigant shall be at least five-eighths of one inch high. The skull and crossbones shall be at least one inch high.

(f) Warning signs for outside of structure or enclosed space shall be as follows:

"Warning: An area within this structure is being fumigated with a deadly poison. All persons entering this building should avoid areas so marked." All lettering on the sign shall be not less than one inch high. The skull and crossbones shall be at least one inch high on the sign.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980.

02 NCAC 34 .0802 DECLARING STRUCTURE SAFE FOR REOCCUPANCY

The certified applicator or licensed structural pest control operator in charge of the fumigation operation, shall not permit or allow any unauthorized person or any domestic animal to enter or re-enter the structure or enclosed space fumigated until he has personally checked said structure or space with suitable gas-detecting equipment or monitoring device and found the structure or enclosed space safe for occupancy by human beings and domestic animals.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980.

(a) Written records shall be maintained on all fumigation operations and be made available for inspection, upon request, by the enforcement agency or Committee anytime during regular business hours. Such records shall include the following information for each fumigation performed:

- (1) Name(s) and address(es) of the property owner(s) or his authorized representative(s);
- (2) Name and address of company represented by the licensee or certified applicator or their authorized representative and the license number of the licensee responsible for the treatment;
- (3) Address of property(ies) to be fumigated;
- (4) Common name(s) of pest(s) to be fumigated;
- (5) EPA approved common name of fumigant used;
- (6) EPA registration number of fumigant applied;
- (7) If a restricted use pesticide is used, that information required by EPA;
- (8) Total amount of fumigant applied;
- (9) Name of licensee or certified applicator performing the fumigation;
- (10) For restricted use pesticides, the information required by Subparagraphs (a)(5), (6), (8), and (9) of this Rule shall also be included on the customer's copy of the written agreement or service record;
- (11) If the pest to be fumigated is a wood-destroying organism, all of 02 NCAC 34 .0605 shall be followed.

(b) Noncommercial certified applicators shall maintain the following records of pesticides applied:

- (1) EPA approved brand name of all fumigants applied;
- (2) EPA registration number of fumigant applied;
- (3) Total amount of fumigant applied;

- (4) Name of certified applicator performing the fumigation;
- (5) Target pest(s);
- (6) Site of application;
- (7) Date of application; and
- (8) Any information required by EPA.

(c) Records must be retained for two years beyond the last date of treatment or the expiration of the written agreement, if applicable.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 2002; July 1, 1998; January 1, 1989; August 20, 1980; August 1, 1980.

02 NCAC 34 .0804 GENERAL FUMIGATION REQUIREMENTS

- (a) Each general fumigation, fumigation, and fumigation operation shall be personally directed, supervised, and performed by a licensed fumigator or a person certified in fumigation.
- (b) The certified applicator or the licensed fumigator shall be available and on call at all times during the fumigation period of each fumigation job in progress.
- (c) The fumigants permitted in fumigation, general fumigations, and fumigation operations shall be one or more, either alone or in combination with those that have North Carolina State and/or federal label registration and shall be used only for the control of specific pests and manner of application stipulated on the label of the original fumigant container.
- (d) The possession selection, usage, application, storage, and disposal of all fumigants and all fumigant containers shall be in conformity with all federal and North Carolina State laws and regulations, and particularly with manufacturer's recommendations, directions, and precautions as specifically set forth in registration labels.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980.

02 NCAC 34 .0805 FUMIGATION REQUIREMENTS: SAFETY AND SAFETY
EQUIPMENT

(a) It shall be the duty and responsibility of the certified applicator or the licensed fumigator in charge of the fumigation, general fumigation, and fumigation operation, to carry out the following:

(1) instruct each person working with fumigants to know the location, purpose, use and maintenance of personal protective equipment and when and how to use this equipment;

(2) instruct each employee and each guard assigned to fumigation work to report immediately to the certified applicator or licensed fumigator, any irregularities or emergencies beyond his control.

(b) Each certified applicator or licensed fumigator, when engaged in fumigation work, shall maintain at his business location up-to-date information on the handling and use of fumigants, devices and materials for testing for the presence of fumigants; and safety and testing devices, such as respirators, canisters, self-contained breathing devices, and gas detectors, which are in serviceable condition, as required by the labeling of the fumigant(s) being used.

(c) Certified applicators, licensed fumigators, and all other persons working with fumigants, must be able to perform artificial respiration and have in their possession a chart of instructions for artificial respiration.

(d) Each certified applicator and each licensed fumigator, shall be outfitted with a fumigation safety kit, which shall be maintained in completely serviceable condition and shall be continuously and immediately available at the fumigation site during the fumigation period of each fumigation job in progress. Each member of the fumigation crew shall be familiar with the contents and use of a fumigation safety kit. The fumigation safety kit shall contain a serviceable respirator or self-contained breathing apparatus, as required by the label of the fumigant being used, a gas detector and a flashlight. The respirator or breathing apparatus shall be of a type approved by the United States Mining Enforcement and Safety Administration or National Institute for Occupational Safety and Health with correct canister and gas detector for the type of fumigant used.

(e) If there is an approved antidote first aid kit, as referred to in 02 NCAC 34 .0403 for the fumigant involved and the antidote may be legally administered by the fumigator, such an antidote-first aid kit shall be assembled and maintained in sanitary and serviceable condition and shall be continuously and immediately available at the fumigation site during the application of fumigant(s) and during the ventilation period. It shall contain the specific items required for each and every fumigant in the conduction of business at each business location of the certified applicator or the licensed fumigator and shall otherwise conform to all specifications prescribed by the North Carolina State Board of Pharmacy or the manufacturer. Antidote-first aid kit items shall be labeled individually, and kept in a single, sturdy box marked "Antidote-First Aid Kit."

(f) All exhausted or expired respirator canisters shall be destroyed. No fumigant shall be used in any fumigation operation unless there is a respirator canister for said fumigant approved by the United States Mining Enforcement and Safety Administration or National Institute for Occupational Safety and Health or by the manufacturer of such equipment; or unless a serviceable, protective, self-contained oxygen breathing apparatus or air unit is used.

(g) All fumigants shall be safely stored with regard to fire, explosion, leakage or other hazards to the health and safety of human beings and domestic animals under conditions specified by the manufacturer or supplier or North Carolina State or federal label registration.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 2002; January 1, 1989; August 1, 1980.

02 NCAC 34 .0806 FUMIGATION REQUIREMENTS FOR FUMIGATION CREW

(a) A fumigation crew shall consist of not less than two individuals. One of said individuals shall be either a certified applicator or a licensed fumigator as defined in 02 NCAC 34 .0102, and the second individual shall be trained in fumigation.

(b) No fumigation operation shall be conducted unless and until at least two individuals, as specified in 02 NCAC 34 .0806(a) shall work together, jointly and concurrently, during release or application of the fumigant(s) and during initial ventilation of the structure(s) fumigated.

(c) At least two members of the fumigation crew shall be equipped with a serviceable respirator or self-contained breathing apparatus of a type approved by the United States Mining Enforcement and Safety Administration or National Institute for Occupational Safety and Health with correct canister for the type of gas used, and shall wear such masks while in the enclosed

space during and after liberation of the fumigant, until initial ventilation is completed, except in those cases specifically excluded by label registration.

(d) For residential structures, no one other than the certified applicator or licensed fumigator shall be permitted to re-enter the fumigated structure(s) or premise(s) until the certified applicator or licensed fumigator shall have ascertained, by personal inspection, without a respirator and by suitable tests, that the structure(s) or premise(s) is safe for re-occupancy. For commercial structures, no one other than the certified applicator or licensed fumigator or a person trained in fumigation shall be permitted to re-enter the fumigated structure(s) or premise(s) until the certified applicator or licensed fumigator or a person trained in fumigation shall have ascertained, by personal inspection, without a respirator and by suitable tests, that the structure(s) or premise(s) is safe for re-occupancy.

(e) Requirements pertaining to spot fumigation are set forth under 02 NCAC 34 .0801.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 2002; January 1, 1989; August 1, 1980.

02 NCAC 34 .0807 FUMIGATION NOTICES

(a) Each licensed fumigator, before performing fumigation on any residential structure, shall notify the Division in advance of the fumigation. Such notification must be received by the Division five days in advance of the fumigation. The committee, at its discretion, may require a pest control inspector to inspect the structure or premises to be fumigated in advance of the fumigation. The committee or its authorized agent may waive the five day advance notice period for an individual fumigation if after reviewing the circumstances it determines such action to be justifiable. The licensee or his authorized agent shall notify the Division in advance of any cancellation, or any change in the date of the fumigation. Failure of the licensee or his authorized agent to notify the Division as specified herein is grounds for disciplinary action by the committee.

(b) Each certified applicator or licensed fumigator, before performing fumigation in any structure or enclosed space, shall notify the police department and fire department having jurisdiction over the location where the fumigation operation is to be performed, and owners, owners-agents, and occupants of all dwellings and places of business within ten feet of the structure(s) or enclosed space(s) to be fumigated. In rural areas having no fire department, the office of the sheriff and county health departments having jurisdiction over the location where

the fumigation operation is to be performed, shall be notified before performing fumigation. The information given in such notices shall in each and every case be as follows:

- (1) name of certified applicator or licensed fumigator in charge of fumigation operation together with his day and night telephone numbers, if different;
- (2) name and address of the company which the certified applicator or the licensed fumigator represents;
- (3) location and/or address of structure(s) or enclosed space(s) to be fumigated as well as its character and use;
- (4) name of fumigant used;
- (5) date and time of the release of fumigant and approximate fumigation exposure period.

(c) The requirements of prior notification of fumigation as set forth in Rule .0807 (b) of this Section shall apply at all times to inhabited vessels of all types and classes excluding commercial freighters, and to house trailers or mobile homes. This requirement of prior notification of fumigation shall not apply to fumigation operations performed in or by means of special rooms, vaults, chambers, tanks, and similar structures or to the fumigation of railroad box cars, trucks, aircraft or common carriers or to the fumigation of insects, pests or rodents in an open area or to spot fumigation operations. The fumigation of common carriers shall be performed in accordance with the latest rules and regulations of the United States Interstate Commerce Commission, Federal Department of Transportation, and other federal agencies where applicable.

(d) Upon specific request prior notification of fumigation, as set forth under Rule .0807 (b) of this Section and prior notification of fumigation performed under Rules .0801(b) and .0812 of this Section, shall be made to the enforcement agency and/or the committee, on each and every fumigation operation prior to the time originally set for the release of the fumigant.

(e) Notice of warning must be served by the certified applicator or licensed fumigator upon the adult occupant responsible for the structure(s) or enclosed space(s) to be fumigated not later than three hours in advance of and before any fumigation operation. If adult occupant responsible for the structure(s) or enclosed space(s) is not present, said notice of warning shall be attached in a conspicuous manner on the entrance or entrance(s) to such structure(s) or enclosed space(s) occupied by human beings.

(f) The certified applicator or licensed fumigator shall, prior to the fumigation operation, advise the property owner or holder of such materials, such as food and drugs, which may be contaminated or damaged by the fumigant(s) to be used and shall hand said property owner or holder a printed list of items to be removed from the structure(s) or enclosed space(s) as required on the registered label of the fumigant to be used, and other precautions to be taken by the property owner or holder.

(g) No vessel shall be fumigated until the captain or other responsible officer shall have furnished to the certified applicator or licensed fumigator in charge of the fumigation operation a signed statement that he has mustered the vessel's crew and caused the members thereof and all other persons aboard the vessel to leave and remain away from such vessel during the fumigation operation, and that he shall not permit their return until a certificate of clearance signed by the certified applicator or licensed fumigator in charge of the fumigation operation has been delivered to the captain or other responsible officer, or in their absence, conspicuously posted, stating the vessel is safe for human occupancy.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 20, 1980; August 1, 1980.

02 NCAC 34 .0808 FUMIGATION APPLICATION

(a) The dwelling or place of business to be fumigated and all parts thereof shall be vacated by human beings and domestic animals during the fumigation operation. In addition, dwellings or enclosed spaces which are physically joined to or in contact with or within ten feet of the structure to be fumigated shall be vacated by human beings and domestic animals during the fumigation and ventilation periods.

(b) Exemptions from Rule .0808(a) of this Section. Apartments within a multiple unit apartment building may be fumigated only after proper sealing of the area to be fumigated and only after adjacent apartments on all sides and those apartments on the next floor, directly above and below, are vacated. All the herein described adjacent units shall be properly ventilated during the entire exposure and ventilation periods.

(c) It shall be the duty of the certified applicator or licensed fumigator in charge of the fumigation operation to be present and personally to make a careful examination of all parts of the structure(s) to be fumigated, including locked rooms, compartments, and closets, and of dwellings or enclosed spaces physically joined to or in contact with said structure, to verify that no humans or domestic animals have remained therein, and that all necessary precautions have been undertaken to safeguard the lives and health of all persons and domestic animals occupying neighboring structures and buildings.

(d) Fumigation of structures shall be performed in strict accordance with the registered label directions and precautions for the intended use of the fumigant, provided there is sufficient distance along the entire length of the passageway between the structure(s) to be fumigated and all adjacent occupied structures to permit comfortable, free and reasonable passage for the members of the crew to work; for the guard on duty to patrol and make frequent periodic inspections; for the certified applicator or licensed fumigator to make tests along the passageway for escaping gas with the gas-detecting equipment and otherwise.

(e) No certified applicator or licensed fumigator shall fumigate any structure or enclosed space with any fumigant if the structure or enclosed space to be fumigated is less than ten feet away from any other structure, measured by their closest points unless such other structure(s) is vacated of all human beings and domestic animals during the entire fumigation and ventilation periods.

(f) Premises to be fumigated other than those cited in Rule .0807(b) of this Section shall be sealed in such a manner as to adequately confine the fumigant to the space intended to be fumigated. Any structure which cannot be made reasonably gas-tight by sealing or tenting shall not be fumigated.

(g) All structures to be fumigated for the control and/or elimination of infestations of drywood termites, wood boring beetles or other structural infesting pests shall be covered completely with a gas-retaining cover in advance of the release of any fumigant.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980.

02 NCAC 34 .0809

WARNING AGENT

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Repealed Eff. August 1, 1980.

02 NCAC 34 .0810

PRE-INSPECTIONS: WARNING NOTICES AND GUARDS

(a) Immediately before the fumigant(s) is to be applied or introduced into a structure or enclosed space, the certified applicator or licensed fumigator, in charge of the fumigation operation shall make a final, personal inspection of the structure or enclosed space and shall ascertain the following:

- (1) That all preparations have been completed;
- (2) That no human being or domestic animal is present within the structure or enclosed space to be fumigated, or any adjacent structures or enclosed spaces that were to be vacated because of danger from the fumigation operation;
- (3) That no open fires, open flames, pilot lights, or oil lamps are burning;
- (4) That all personnel not engaged in the fumigation operation are outside the structure or enclosed space to be fumigated;
- (5) That all known foods, drugs or other materials subject to contamination by the fumigation have been removed from the structure or enclosed space to be fumigated;
- (6) That all doors, windows, and all other means of access to the structure or enclosed space, except exits to be used by the fumigation crew, have been locked or barred. Such exits shall be secured in like manner promptly after the fumigant has been released or introduced into the structure(s) or enclosed space(s); All doors and other entrances which can be opened from the outside shall be secured and the building, remain in the possession of the certified applicator or licensed fumigator in charge of the fumigation operation for the entire fumigation period;
- (7) Rule .0810(a)(6) of this Section shall not apply to complete general fumigation performed by means of tents, tarpaulins or other complete sealing covers where there is a guard on duty, or to spot fumigation.

(b) Prior to the application or release of fumigant(s), suitable warning signs shall be securely and conspicuously posted at the ground level on all doors and entrances to the structure and at least one warning sign on each side of the structure, common carrier or enclosed space to be fumigated (in tent fumigations warning signs shall be placed securely and conspicuously on the

outside of the tents or covers in the above indicated locations); at all doors and entrances to common carriers or enclosed spaces to be fumigated; upon all gangplanks, ladders, etc., from the dock, pier or land to the vessel, as follows:

(Skull
(Skull

DANGER

And
And

FUMIGATING WITH

Crossbones)
Crossbones)

(Name of Fumigant)

DEADLY POISON

ALL PERSONS ARE WARNED TO KEEP AWAY

Name of Fumigator _____

Address _____

Day Telephone Number _____

Night Telephone Number _____

Such warning signs shall not be less than 10 inches by 12 inches, printed, painted, or made in indelible, red ink or paint, insoluble in water, upon a white background. The words "Danger" and "Deadly Poison" shall be in block lettering at least two inches high. The name of the fumigant shall be at least five-eighths of one inch high. The skull and crossbones shall be at least one inch high. All other lettering on the warning sign shall be not less than one-fourth of one inch high.

(c) Requirements and Duties of Guards and Watchmen

(1) Persons designated and assigned as guards or watchmen are required on the site during the entire fumigation period and until the structure(s) or enclosed space(s) has been ventilated and declared safe for occupancy. All guards shall be capable, awake and alert and remain on duty at all times at the structure(s) or enclosed space(s) being fumigated.

(2) One guard or watchman shall be considered sufficient for each fumigation operation, unless, in the judgment of the certified applicator or licensed fumigator in charge of the fumigation operation, the conditions and circumstances necessitate additional guards or watchmen.

(3) It shall be the duty of the guards or watchmen to prevent the entrance of unauthorized personnel into said structure(s) or enclosed space(s) or danger area(s) while the structure(s) or enclosed space(s) is being fumigated, and after the exposure period and during the ventilation period.

(4) The guard(s) or watchman(men) shall also make frequent inspections of tarps or other sealing covers, and shall make, or cause to be made, necessary repairs, and shall immediately notify the certified applicator or licensed fumigator in charge of the fumigation operation, of any irregularities or emergencies beyond their control, including damaged or opened tarps, tarpaulins, or covers.

(5) Guards and watchmen shall be properly instructed and shall be under the immediate supervision of the certified applicator or licensed fumigator in charge of the fumigation operation, during and throughout the entire fumigation period.

(d) If during the fumigation operation the enforcement agency finds a condition(s) present that is hazardous to public health, the enforcement agency shall halt said fumigation operation until such time that the hazardous condition(s) is corrected.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980.

The certified applicator or licensed fumigator in charge of the fumigation operation, shall personally determine by sensory perception and also using suitable gas-detecting or monitoring devices or other materials that the entire structure(s) or enclosed space(s) fumigated, including beds, bedding and other materials therein, have been ventilated sufficiently to permit safe occupancy or reoccupancy of human beings and domestic animals. In no instance shall ventilation or aeration time be less than that recommended by the manufacturer of the fumigant on the registered label, fumigation manual, technical fumigation literature or in the absence thereof, less than that dictated by good industry fumigation practice.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980.

- (a) Each special room, vault, tank, chamber, or other similar structure being maintained or used for fumigation shall be so located, constructed, and ventilated that when in operation or being ventilated the chamber or said structure of similar design shall not constitute a danger to the health or life of human beings and domestic animals.
- (b) Fumigation enclosures as set forth in this Rule shall be locked during the fumigation period.
- (c) Each special room, vault, tank, chamber, or other similar structure shall be gas-tight. When any escape or leakage of a fumigant from a special room, vault, tank, chamber or other similar structure is discovered, no further fumigation operations shall be conducted, unless and until such escape or leakage of said fumigant from such structure shall be properly and effectively corrected.
- (d) A permanent warning notice of the same designed specified in Rule .0810(b) of this Section shall be securely and conspicuously attached on the outside of every door or other entrance to said special room, vault, tank, chamber, or other similar structure.

(e) No guard, watchman or official notice of fumigation shall be necessary when fumigation is conducted in special rooms, vaults, tanks, chambers, or structures of similar design, provided all other applicable precautionary measures and requirements are observed.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 1, 1980.

SECTION .0900 - DUTIES AND RESPONSIBILITIES OF LICENSEE

02 ncac 34 .0901 BONDS

(a) For the purpose of these rules and regulations, a bond shall mean any written instrument issued or executed by a bonding, surety, or insurance company, licensed to do business in the State of North Carolina, or a cash bond or any other security approved by the committee, guaranteeing the fulfillment of the agreement between the licensee or business entity and his customer.

(b) While the State of North Carolina does not require that termite control, or other structural pest control services, be covered by a bond, if the licensee advertises or otherwise represents himself or the company which he operates, as being bonded, the bond so advertised shall, in fact, be in force.

(c) Any licensee or business entity advertising to be bonded shall advise each customer, in writing, in the proposal, whether or not the contract or written agreement will be covered by a bond of any type.

(d) If the performance of the work is guaranteed by a bond, the obligation of the bond shall set forth specifically such items as: necessary retreatments, timber replacements, etc., in wording identical to that in the bond itself.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977.

02 NCAC 34 .0902 FINANCIAL RESPONSIBILITY

(a) A licensee shall obtain and maintain financial responsibility in the form of a general liability insurance policy which covers operations in progress and completed operations. The insurance policy must provide coverage for all employees that work for the licensee. If an insurance policy is issued to a structural pest control company that employs more than one licensee and the policy otherwise meets the standard set forth in this Rule, all licensees employed by the structural pest control company will be deemed to have insurance.

(b) The insurance policy required in Paragraph (a) of this Rule must provide the following minimum coverage:

(1) Single limit

| | |
|-----------------|---------------------------|
| Property Damage | \$100,000 Each Occurrence |
|-----------------|---------------------------|

| | |
|---------------|---------------------------|
| Bodily Injury | \$300,000 Each Occurrence |
|---------------|---------------------------|

(2) Combined single limit \$300,000 Each Occurrence

(c) Each applicant for a license in any phase of structural pest control shall show evidence of his financial ability to properly indemnify persons suffering from the use or application of pesticides in the form of a Certificate of Insurance completed by the insurance company with the Division named as a certificate holder.

(d) The Certificate of Insurance shall clearly set forth the type of coverage, limits of liability, and any exclusions of the policy and shall have attached an endorsement which indicates that the policy provides coverage for any pollution or contamination occurring as a result of the use or application of any pesticide or shall state that such an endorsement has been issued with the policy.

(e) The license applicant shall be responsible for the submission of the Certificate of Insurance to the Division as specified in Paragraphs (c) and (d) of this Rule. No license shall be issued, reissued, or renewed until said Certificate of Insurance is received by the Division.

(f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance. The insurance policy shall be in

full force and effect during the entire period covered by the license certificate. The license shall expire upon:

- (1) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule;
- (2) cancellation of the policy; or
- (3) expiration of the policy.

Such expired license shall be reinstated only upon satisfactory proof that the licensee has obtained the required financial responsibility coverage.

(g) The licensee shall give the Division at least 10 days notice prior to the occurrence of the following:

- (1) cancellation of the policy;
- (2) material change in the policy; or
- (3) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule.

(h) No structural pest control license shall be issued to any person where there exists an outstanding and unpaid final judgment against said person resulting from any civil suit arising out of damages suffered by a plaintiff as the result of a misuse of a pesticide by said person. Any current and valid structural pest control license shall become null and void 180 days following the imposition of a final judgment awarding damages to any plaintiff resulting from a civil suit arising out of losses suffered as the result of a pesticide misuse by the holder of said license unless the final judgment is settled in full within said 180 days.

(i) Paragraphs (a) through (g) of this Rule shall not apply to any person holding an inactive license as defined by 2 NCAC 34 .0102(30).

History Note: Authority G.S. 106-65.37;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998; November 2, 1992; January 1, 1989; August 1, 1983; August 1, 1980.

02 NCAC 34 .0903

DUTIES AND RESPONSIBILITIES OF LICENSEE

If a structural pest control operator licensed under the provisions of G.S. 106-65.25(a), to wit:

- (1) for the control of wood-destroying organisms, or
- (2) for the control of household pests, or
- (3) fumigation,

has his license revoked or fails to renew his license while he has contracts or written agreements for which he has been paid, he and the company with which he was working shall be responsible for the fulfillment of said contracts or written agreements without additional remuneration. A list of all such contracts or written agreements shall be filed with the secretary of the committee within 30 days of date of revocation of license or by October 1, in case a license is not renewed.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977.

02 NCAC 34 .0904

PROHIBITED ACTS

(a) No reference shall be made by any certified applicator, licensee, business establishment, or business entity in any form of advertising that would indicate approval, endorsement, or recommendation by the Committee or by any agency of the federal government or North Carolina State, county, or city government.

(b) The use of a structural pest control license(s), certified applicator's identification card(s), registered technician's identification card(s), or licensee identification card(s) for any purpose other than identification is prohibited.

(c) In solicitation of structural pest control business, no licensee or his employees shall claim that inspections or treatments are required, authorized, or endorsed by any agency of the federal government or North Carolina State, county, or city government unless said agency states that an inspection or treatment is required for a specific structure.

(d) No licensee shall advertise, in any way or manner, as a contractor for structural pest control services, in any phase(s) of work for which he does not hold a valid license(s) as provided for under G.S. 106-65.25(a), unless said licensee shall hold a valid certified applicator's identification card or registered technician's identification card, as provided for under G.S. 106-65.31, as an employee of a person who does hold a valid state license(s) covering phases of structural pest control work advertised.

(e) The impersonation of any North Carolina State, county, or city inspector or any other governmental official is prohibited.

(f) No licensee, certified applicator or registered technician's identification card holder shall advertise or hold himself out in any manner in connection with the practice of structural pest control as an entomologist, plant pathologist, horticulturist, public health engineer, sanitarian, unless such person shall be qualified in such field(s) by required professional and educational standards for the title used.

(g) No certified applicator, licensee, or his employees shall represent to any property owner or his authorized agent or occupant of any structure that any specific pest is infesting said property, structure, or surrounding areas thereof, unless strongly supporting visible evidence of such infestation exists.

(h) No certified applicator or licensee or their employees shall authorize, direct, assist, or aid in the publication, advertisement, distribution, or circulation of any material by false statement or representation concerning the licensee's structural pest control business or business of the company with which he is employed.

(i) No certified applicator or licensee or their employees shall advertise or contract in a company name style contradictory to that shown on the certified applicator's identification card or license certificate; provided, however, when there is a sale of a business or other name change the company may use both names together for a period not to exceed three years from the date of the name change or sale of business.

(j) No certified applicator shall use any name style on his certified applicator's identification card which contains the words "exterminating", "pest control," or any other words which imply that he provides pest control services for a valuable consideration unless he is a licensee or a duly authorized agent or employee of a licensee.

(k) No licensee issued an inactive license shall engage in any phase of structural pest control under such inactive license.

(l) No licensee, certified applicator, or registered technician shall indicate on any foundation diagram prepared pursuant to 02 NCAC 34 .0601 or 02 NCAC 34 .0605 that hidden damage or possible hidden damage due to any wood-destroying organism exists in a structure unless there is visible evidence of infestation or damage present in the immediate area of the alleged hidden damage.

(m) No pesticide shall be applied for the purpose of performing structural pest control when the conditions at the site of application favor drift or runoff from the target site.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991 January 1, 1989; August 20, 1980;

Temporary Amendment Eff. July 10, 1995 for a period of 120 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. August 1, 2002; July 1, 1998; November 1, 1995.

SECTION .1000 - TIME FOR FILING COMPLAINTS

02 NCAC 34 .1001 TIME FOR FILING COMPLAINTS

(a) No disciplinary action shall be commenced against a licensee, employee of a licensee or certified applicator for any violation of these Rules, except those violations specified in Paragraph (b) of this Rule, after two years from the act or omission.

(b) With respect to disciplinary action alleging a violation of G.S. 106-65.28(a)(1), (2), (4), (7), (8) or (11), no disciplinary action shall be commenced against a licensee, employee of a licensee or certified applicator after two years from the date of discovery by the Division of the alleged violation.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. August 3, 1992; January 1, 1989.

02 NCAC 34 .1002 JURISDICTION

The lapsing of a North Carolina State certified applicator's identification card or structural pest control license by operation of law or the voluntary surrender of a certified applicator's identification card by a certified applicator or a structural pest control license by a licensee shall not deprive the committee of jurisdiction to proceed with an investigation or disciplinary proceedings against such certified applicator or licensee, or to render a decision suspending or revoking such applicator's identification card or license.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977.

02 NCAC 34 .1003 INSANITY OR MENTAL ILLNESS

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Repealed Eff. August 1, 1980.

02 NCAC 34 .1004
OPERATOR

PROHIBITION AGAINST ASSOCIATION OF SUSPENDED

Any person who has been denied a license, certified applicator's identification card or registered technician's identification card for any of the reasons specified in G.S. 106-65.26(d) and/or G.S. 106-65.31(b), or who has had his license, certified applicator's identification card or registered technician's identification card revoked, or whose license, certified applicator's identification card or registered technician's identification card is under suspension under the provisions of G.S. 106-65.28, or while acting as a member, officer, director, associate or employee of any structural pest control partnership, corporation, firm or association participating in any of the prohibited acts of these Rules or the Structural Pest Control Law for which the license, certified applicator's identification card or registered technician's identification card was denied, suspended or revoked, shall be prohibited from participating in any phase of structural pest control work covered by said suspended or revoked license or card.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; August 1, 1980.

SECTION .1100 - INSPECTION FEES

02 NCAC 34 .1101

RIGHTS OF ENFORCEMENT

(a) The enforcement agency and the member of the Attorney General's staff assigned to the Committee shall have, during regular business hours, the right to see, examine, and inspect those records, chemicals, and such equipment as may be deemed necessary to the structural pest control operations of said person within the provisions of these Rules and Regulations and the Structural Pest Control Law.

(b) The enforcement agency or any member of the Committee may in its discretion inspect any properties treated by structural pest control licensees or certified applicators for pests for the purpose of determining the efficiency of the remedial measures applied and to determine if treatment(s) comply with the requirements set forth in these Rules and Regulations.

(c) When requested by the Division or Committee, the licensee or certified applicator shall furnish for analyses, sufficient samples of pesticides or other chemicals used in treating for structural pests and shall provide copies, or allow the copying, of such records as may be deemed necessary by the Division or Committee to document the use or application of pesticides or performance of work within the provisions of these Rules and the Structural Pest Control Law.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. July 1, 1998.

02 NCAC 34 .1102 DESIGNATION OF DEVIATIONS

(a) The committee shall designate all deviations as either primary or secondary and shall notify each licensee and certified applicator of the designations.

(b) If a deviation is found by the Division, the Division shall notify the licensee or certified applicator responsible for the deviation on an inspection report or other form(s) prescribed by the committee. All deviations shall be corrected within 30 days of written notice from the Division and the Division notified, in writing, when this has been accomplished. Failure of the licensee or certified applicator to correct all deviations within this 30-day period, is a ground for disciplinary action by the committee. The committee secretary may, upon written request and for good cause shown, extend the period for correcting such deviations.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; August 1, 1980.

02 NCAC 34 .1103

RE-INSPECTIONS

(a) If a primary deviation, as defined by the committee, is found by the Division, the licensee or certified applicator responsible for said deviation shall be notified, in writing, as specified in Rule .1102 (b) of this Section of the deviation. At the end of 30 days from the date of notification a reinspection shall be made by the Division to determine if the deviation has been corrected. The licensee or certified applicator responsible for the deviation shall be charged a fee of ten dollars (\$10.00) for the reinspection. The disclosure of a primary deviation by the Division shall require a reinspection and correction of the primary deviation before the date of reinspection shall not relieve the licensee or certified applicator of the responsibility to pay the reinspection fee as heretofore set forth. If the primary deviation is not corrected on the first reinspection date, the licensee or certified applicator shall be notified, in writing, and a second reinspection shall be made at the end of 30 days from the date of notification. A fee of fifty dollars (\$50.00) shall be charged the licensee or certified applicator for the second reinspection. If the primary deviation is not corrected on the second reinspection date, the licensee or certified applicator shall be notified, in writing, and a third reinspection shall be made at the end of 30 days from the date of notification. A fee of one hundred dollars (\$100.00) shall be charged the licensee or certified applicator for the third reinspection. This reinspection procedure shall be repeated at 30-day intervals thereafter until all primary deviations have been corrected. A fee of one hundred dollars (\$100.00) shall be charged the licensee or certified applicator for each reinspection made after the date of the third reinspection. If more than one primary deviation is found on a job at any time by the Division or committee, the licensee or certified applicator shall be charged only one reinspection fee for each reinspection of the job. All such reinspection fees, as set forth herein, shall be paid within 30 days of written notice from the Division or the committee. Failure of the licensee or certified applicator to pay all such fees, within the time specified herein, is a ground for disciplinary action by the committee.

(b) If a secondary deviation, as defined by the committee, is found by the Division, the licensee or certified applicator responsible for said deviation shall be notified, in writing, as specified in Rule .1102 (b) of this Section, of the deviation. At the end of 30 days from the date of

notification, a reinspection shall be made by the Division to determine if the deviation has been corrected. If all secondary deviations are not corrected on the first reinspection date, the deviations shall become primary deviations and handled thereafter as specified in Rule .1103 (a) of this Section.

(c) If the validity of the results of tests, conducted by the committee or its authorized representatives, on soil samples taken from jobs treated by the licensee or certified applicator are questioned by that licensee or certified applicator, analyses of the soil samples shall be made by a chemist agreeable to the licensee or certified applicator and the committee. The chemists' analyses shall be accepted as the basis for disposition of the case. The cost of the analyses by the chemist shall be borne by the certified applicator or licensee, if the results of the analyses verify the committee's prior analyses or, by the committee if the results do not verify the committee's prior analyses.

History Note: Authority G.S. 106-65.29;

Eff. July 1, 1976;

Readopted Eff. November 22, 1977;

Amended Eff. January 1, 1991; January 1, 1989; August 1, 1980.

SECTION .1200 - ADMINISTRATIVE HEARINGS: CONTESTED CASES

02 NCAC 34 .1201 NOTICE OF HEARING; ANSWER

(a) The contents and manner of service of notice of hearing in contested cases shall be as prescribed in G.S. 150B-38(b) and (c).

(b) Any party who has been served with notice of hearing may file a written response as prescribed in G.S. 150B-38(d).

History Note: Authority G.S. 106-65.29; 150B-38;

Eff. May 1, 1992;

Amended Eff. August 3, 1992.

02 NCAC 34 .1202 RIGHT TO HEARING

(a) Contested Cases. Disciplinary proceedings to enforce the provisions of the North Carolina Structural Pest Control Law and 2 NCAC 34 are deemed to be "contested cases" within the meaning of G.S. 150B-2, and any person subject to such proceedings shall be given notice and the opportunity to be heard.

(b) Summary Suspension. Nothing within Paragraph (a) of this Rule shall abridge the right of the Committee to summarily suspend a license, a certified applicator's card or a registered technician's identification card prior to hearing pursuant to G.S. 150B-3(c).

History Note: Authority G.S. 106-65.29; 150B-38;

Eff. May 1, 1992.

02 NCAC 34 .1203 LOCATION OF HEARING

The location of the hearing in a contested case shall be as prescribed in G.S. 150B-38(e).

History Note: Authority G.S. 106-65.29; 150B-38;

Eff. May 1, 1992.

02 NCAC 34 .1204

DISCOVERY; INTERVENTION; SUBPOENAS

(a) Parties in a contested case may engage in discovery pursuant to the provisions of the Rules of Civil Procedure, G.S. 1A-1.

(b) The intervention of persons not initially parties to a contested case is governed by G.S. 150B-38(f). Petitions or motions to intervene must be in writing. The Committee shall promptly determine whether to grant or deny intervention and shall so notify the petitioner and all parties in writing.

(c) The authority of the Committee to issue or revoke subpoenas in preparation for, or in the conduct of, contested cases is governed by G.S. 150B-39. If a subpoena is issued at the request of a party and not on the Committee's own motion, that party shall bear the cost of service.

History Note: Authority G.S. 106-65.29; 150B-38;

Eff. May 1, 1992.

02 NCAC 34 .1205

CONDUCT OF HEARING

(a) Hearings in contested cases shall be conducted by a majority of the Committee. The Chairman shall serve as presiding officer unless he is absent or disqualified, in which case the Vice-chairman shall preside. Hearings shall be conducted as prescribed by G.S. 150B-40.

(b) Disqualification. An affidavit seeking disqualification of any Committee member, if filed in good faith and in a timely manner, will be ruled on by the remaining members of the Committee. An affidavit is considered timely if it is filed:

(1) Prior to the hearing; or

(2) As soon after the commencement of the hearing as the affiant becomes aware of facts which give rise to his belief that a Committee member should be disqualified.

(c) Evidence. The admission of evidence in a hearing on a contested case shall be as prescribed in G.S. 150B-41.

History Note: Authority G.S. 106-65.29; 150B-38;

Eff. May 1, 1992.

02 NCAC 34 .1206

DECISION OF COMMITTEE

(a) The form and content of the Committee's decision in a contested case shall be as prescribed by G.S. 150B-42(a), and its decision shall be served upon the parties in a manner consistent with said statute.

(b) The official record of the hearing in a contested case shall contain those items specified in G.S. 150B-42(b).

History Note: Authority G.S. 106-65.29; 150B-38;

Eff. May 1, 1992;

Amended Eff. August 3, 1992.