

The proposed amendments - 02 NCAC 34 .0328, .0502, .0503, .0505, and .0506 are to be published in the NC Register on 7/1/16. The comment period will end on August 30, 2016.

These amendments allow for the use of termiticides with application methodology that differs from those in 02 NCAC 34 .0503, .0505, and .0506 to be used without the approval of a “waiver” by the property owner, or his authorized agent. There are also amendments to remove or correct outdated information., and to require a licensee or his employee, to be present to provide access to records, pesticides, and application equipment during an inspection.

Written comments may be submitted to James W. Burnette, Jr., Secretary, NC Structural Pest Control Committee, 1090 Mail Service Center, Raleigh, NC 27699-1090. James.burnette@ncagr.gov

02 NCAC 34 .0328 is proposed for amendment as follows:

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. During inspections the licensee or his employee shall be present to provide access to all structural pest control records, pesticides and application equipment, upon request by the Division.

(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;

02 NCAC 34 .0502 is proposed for amendment as follows:

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)~~(a) 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)~~(a)(1)(B) of this ~~Rule~~ Rule, ~~data to support all efficacy claims made on the label, labeling and any promotional materials distributed by the registrant or manufacturer.~~
 - (A) data to support all efficacy claims made on the label, labeling and any promotional materials distributed by the registrant or manufacturer;
 - (B) if the Committee approves a termiticide under Part (a)(1)(B) and the Directions for Use differ from the requirements of .0503, .0505 or .0506, the committee may determine that treatments with those termiticides are exempt from all or part of the requirements of .0503(a)(4) and (6) through (11), .0505 or .0506 provided:
 - (i) the product is labeled for protection of the entire structure,
 - (ii) the licensee provides a warranty for the control of subterranean termites on the entire structure.

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

~~(d)(c)~~ 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)(d)~~ A list of approved termiticides may be obtained by writing the North Carolina Department of Agriculture and Consumer Services, Structural Pest Control and Pesticides Division, P.O. Box 27647, Raleigh, NC 27611 1090 Mail Service Center, Raleigh, NC 27699-1090, or by calling (919) 733-6100.

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

02 NCAC 34 .0503 is proposed for amendment as follows:

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.

(f) If the licensee uses a termiticide that has been approved by the Committee pursuant to 02 NCAC 34 .0502(a)(2)(B) and the licensee complies with the requirements of that subsection, the licensee is excused from complying with 02 NCAC 34 .0503(a)(4) and (a)(6) through (11). For a list of termiticides the Committee has approved under 02 NCAC 34 .0502(a)(2)(B),

see

<http://www.ncagr.gov/SPCAP/structural/documents/TTermiticidesApprovedForUseInNorthCarolinapdf.pdf>

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

02 NCAC 34 .0505 is proposed for amendment as follows:

02 NCAC 34 .0505 SUBTERRANEAN TERMITE PREVENTION/RES BLDGS UNDER CONST

(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.

h) If the licensee uses a termiticide that has been approved by the Committee pursuant to 02 NCAC 34 .0502(a)(2)(B) and the licensee complies with the requirements of that subsection, the licensee is excused from complying with 02 NCAC 34 .0505. For a list of termiticides the Committee has approved under 02 NCAC 34.0502 (a)(2)(B), see <http://www.ncagr.gov/SPCAP/structural/documents/TTermiticidesApprovedForUseInNorthCarolinapdf.pdf>.

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

02 NCAC 34 .0506 is proposed for amendment as follows:

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.

(e) If the licensee uses a termiticide that has been approved by the Committee pursuant to 02 NCAC 34 .0502(a)(2)(B) and the licensee complies with the requirements of that subsection, the licensee is excused from complying with 02 NCAC 34 .0506. For a list of termiticides the Committee has approved under 02 NCAC 34.0502 (a)(2)(B), see <http://www.ncagr.gov/SPCAP/structural/documents/TermiticidesApprovedForUseInNorthCarolinapdf.pdf>.

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