

REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0101

DEADLINE FOR RECEIPT: January 17, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the "Submission for Permanent Rule" form submitted for each of these rules, the second box under "6." has not been checked. Did your agency post the requirements listed in G.S. 150B-19.1(c)(1)-(5) on your agency's website no later than July 1, 2024? If so, are you able to provide any evidence to prove compliance with the posting requirements?

In (a)(1), line 9, "faithfully and honestly" is ambiguous and unnecessary. Please delete.

In (a)(2), all of line 11 is superfluous. Please delete it and begin the sentence with "Licensed..."

In (a)(3), line 14, "satisfactory" is unclear and amorphous. Please delete.

In (b)(1), line 19, where can the regulated public find "the current label registrations of federal and State of North Carolina agencies responsible for making such registrations?" Please cross-reference or incorporate by reference where this information can be found.

In (b)(2), lines 22-23, where can the regulated public find "all federal and North Carolina State laws and regulations governing the possession, usage, application, storage, and disposal of pesticides and pesticide containers?" Please cross-reference or incorporate by reference where this information can be found.

In (b)(3), add a comma after "operators" and after "agents". Also, in line 26, please spell out which "Division" and "Committee" you are referring to and make this clear throughout all the rules.

In (4)(A), what is "Adoption by Reference" and why is it in all caps? Did you mean incorporation by reference pursuant to 150B-21.6? If so, in line 29, replace "adopts" with "incorporates". You don't need to add the title "Incorporation by Reference", just implement the requirements of 150B-21.6 into the rule.

On pg. 2, in (B)(i), consider adding "all the" after "completed".

In (B)(ii), line 8, I don't see where subsection "(g)" exists in the cited Rule. Is this a typo?

In (C), line 11, please change “the section” to “this Subpart”.

In (C)(ii), line 17, please add “(PPE)” after “equipment”.

In (C)(iii), line 24, please replace “&” with “and”.

In (C)(iii) line 25, please consider inserting a period after “uses”. Delete “and” to start the new sentence with “This includes”.

In (C)(iv), lines 36-37, add a comma after “condition” and after “manufacturer”. Also, delete “reasonably” as it’s unclear and ambiguous.

On pg. 3, (5), line 10, add “02” to the beginning of the cited Rule.

In the History Note for all these rules, please include the desired effective date at the bottom.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 34 .0101 is amended as published in 39:01 NCR 6-8 as follows:

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.
- (4) Requirements for direct supervision of registered technicians by licensed or certified applicators are as follows:

(A) ADOPTION BY REFERENCE: The North Carolina Structural Pest Control Committee hereby adopts by reference for all Pesticide Applicators, Part 171.201 "Supervision of Noncertified Applicators" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B-Certification Requirements for Applicators of Restricted Use Pesticides" including subsequent amendments. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <http://www.gpo.gov/>.

- 1 (B) Before any registered technician may use any pesticide under the direct supervision of the
2 licensed or certified applicator, the supervising licensed or certified applicator must ensure
3 that the registered technician has met all of the following qualifications:
- 4 (i) The registered technician has completed training requirements under 02 NCAC
5 34 .0313;
- 6 (ii) The registered technician has been instructed within the last 12 months in the safe
7 operation of any equipment he or she will use for mixing, loading, transferring, or
8 applying pesticides as required 02 NCAC 34 .0313(g); and
- 9 (iii) The registered technician is at least 18 years old.
- 10 (C) Use-specific conditions that must be met in order for a registered technician to use any
11 pesticide are outlined in the section. The licensed or certified applicator must ensure that
12 all of the following requirements are met before allowing a registered technician to use any
13 pesticide under his or her direct supervision:
- 14 (i) The licensed or certified applicator must ensure that the registered technician has
15 access to the applicable product labeling at all times during its use.
- 16 (ii) The licensed or certified applicator must provide the registered technician with all
17 personal protective equipment required by the labeling of any pesticide used and
18 through training, documentation, or supervision, ensure that the PPE is being
19 worn and used correctly for its intended purpose.
- 20 (iii) The licensed or certified applicator must provide to each registered technician,
21 through training, the tools needed to analyze a site prior to an application being
22 made and understand when it is necessary to postpone an application until the
23 supervising licensed or certified applicator be contacted for input. This training
24 must include reading & understanding labeling directions, precautions, and
25 requirements applicable to various sites and uses, and how the characteristics of a
26 use site (e.g., structural pest identification, damage assessment, construction type,
27 control/management options, as well as other factors which could impact any
28 pesticide application decision such as surface and ground water, runoff potential,
29 soil type, weather forecast, endangered species, local population) and the
30 conditions of application (e.g. equipment, method of application, formulation)
31 might increase or decrease the risk of adverse effects. The licensed or certified
32 applicator must provide this information in a manner that the registered technician
33 can understand.
- 34 (iv) The licensed or certified applicator must, through training, documentation, or
35 inspections, ensure that before each day of use, equipment used for mixing,
36 loading, transferring, or applying pesticides is in proper operating condition as
37 intended by the manufacturer and can be used without risk of reasonably

- 1 foreseeable adverse effects to the registered technician, other persons, or the
2 environment.
- 3 (v) The licensed or certified applicator must ensure that a means to immediately
4 communicate with the licensed or certified applicator has been provided to each
5 registered technician using any pesticide under his or her direct supervision.
- 6 (vi) The licensed or certified applicator must be physically present at the use site, when
7 required by the product labeling
- 8 (5) Before any registered technician uses any pesticide under the direct supervision of the licensed or
9 certified applicator, the supervising licensed or certified applicator must ensure that the registered
10 technician has met all the requirements and been trained in accordance with 2 NCAC 34 .0313.
- 11 (6) All licensed or certified applicators must adhere to the following provisions of recordkeeping as
12 outlined in the following section and subsection.
- 13 (A) Prior to the registered technician using any pesticide, the licensed or certified applicator
14 must create or verify the existence of records documenting that each registered technician
15 has met the qualifications required in Subparagraph (b)(5) of this Rule. For each registered
16 technician, the records must contain the information as provided in Part (b)(6)(B) of this
17 Rule.
- 18 (B) The record must contain all of the following information:
- 19 (i) The registered technician's printed name and signature;
- 20 (ii) The date the training requirement in Subparagraph (b)(5) of this Rule was
21 completed;
- 22 (iii) The name of the person who provided the training; and
- 23 (iv) The title or a description of the training provided.
- 24 (C) The licensed or certified applicator supervising any registered technician must have access
25 to records documenting the information required in Part (b)(6)(A) of this Rule at the
26 licensed applicator's principal place of business for two years from the date the registered
27 technician uses the pesticide.

28

29 *History Note: Authority G.S. 106-65.29;*
30 *Eff. July 1, 1976;*
31 *Readopted Eff. November 22, 1977;*
32 *Amended Eff. August 3, 1992; August 1, 1980;*
33 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November*
34 *22, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0302

DEADLINE FOR RECEIPT: January 17, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the "Submission for Permanent Rule" form submitted for each of these rules, the second box under "6." has not been checked. Did your agency post the requirements listed in G.S. 150B-19.1(c)(1)-(5) on your agency's website no later than July 1, 2024?

In (a)(1), line 5, what is the "regular form?" Are its contents or substantive requirements in rule in accordance with G.S. 150B-2(8a)(d)?

In (a)(1), does the Division have statutory authority to prescribe the "regular form?"

At line 6, do you mean "may" or "shall?"

In (a)(2), under what circumstances is an application approved? Who makes this determination? What factors are considered?

At line 9, what are the "necessary forms?" Are the contents or substantive requirements of the forms in rule in accordance with G.S. 150B-2(8a)(d)?

In (a)(5), line 17, what documents are you referring to?

At line 18, what circumstances "shall permit" such documents to be withdrawn? What factors are considered? Page 2, (b)(3), line 22 has similar language but includes "at its discretion". Please clarify.

In (a)(7), please define "unauthorized assistance."

At line 36, who are the Committee's "authorized representatives?"

On pg. 2, lines 2 and 17, what investigations does the Committee "deem necessary?" How does the Committee make this determination? What factors are considered?

In (b)(1), does the Division have statutory authority to prescribe the form?

At line 16, who are the Committee's "authorized representatives?"

At line 17, what investigations are "deemed necessary?" What factors are considered?

At line 22, do you mean "may" or "shall?" If you mean "may" under what circumstances may the documents be withdrawn?

In (b)(4), did you mean incorporation by reference pursuant to 150B-21.6? If so, in line 27, replace "adopts" with "incorporates". You don't need to add the title "Incorporation by Reference", just implement the requirements of 150B-21.6 into the rule.

In (b)(4)(A), line 34, replace "&" with "and". Also, please insert the statute for the "NC Structural Pest Control Law".

On pg. 3, line 2, add a comma after "problems".

At line 8, add a comma after "products". At line 9, add a comma after "under" and insert "and" before "in".

At line 16, add a comma after "soil".

On pg. 4, at line 4, add a comma after "examination".

At line 29, what does it mean for an applicant to "intend to succeed" the deceased licensee? Who falls into this category?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 34 .0302 is amended as published in 39:01 NCR 8-10 as follows:

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. The Committee shall approve applications if a complete application was submitted to the Division and all criteria under G.S. 106-65.26 has been met.
- (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 high-resolution, 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 shall 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 or her application shall be required to provide current information concerning his or her 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 in answering test questions from anyone who is not employed by the Division during an examination shall be dismissed from the examination and his or her 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 licensure.
- (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 submitting a completed application with all required fees and insurance documents therefor.
- (10) The applicant shall furnish the information required by G.S. 106-65.26 and this Rule 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 or she seeks. The Committee or its authorized representatives may,

1 based upon their review of the contents of an application, make such investigations as the Committee
2 deems necessary to review an applicant's qualifications.

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

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

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

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

13 (2) An applicant for a certified applicator's identification card in any phase of structural pest control
14 shall furnish information as specified in G.S. 106-65.26 of the Act to establish that said applicant
15 possesses qualifications for the particular certified applicator's identification card which he or she
16 seeks. The Committee or its authorized representatives may, based upon their review of the contents
17 of an application, make such investigations as it deems necessary with respect to the applicant's
18 qualifications.

19 (3) All applications for certified applicator's identification cards under the provisions of G.S.
20 106-65.26(a) and (b) shall be retained by the office of the Committee secretary. All documents filed
21 in support of an application shall be kept by the office of the Committee secretary; provided,
22 however, that the Committee shall at its discretion permit such documents to be withdrawn upon
23 substitution of a true copy. All examinations shall remain the property of the Committee.

24 (4) ~~Any applicant making a score of 70 percent or more on the core certification examination and on~~
25 ~~any certified applicator's examination(s) shall be issued a certified applicator's identification card in~~
26 ~~that phase of structural pest control after submitting a completed Division's Certified Applicator~~
27 ~~Card application with required fees therefor.~~ ADOPTION BY REFERENCE: The North Carolina
28 Structural Pest Control Committee, hereby adopts by reference for all Certified Applicators, Part
29 171.103 (a) through (e) "Standards for certification of commercial applicators" of Title 40:
30 Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide
31 Applicators Subpart B-Certification Requirements for Applicators of Restricted Use Pesticides"
32 including subsequent amendments. Copies of this material may be obtained at no cost from the U.S.
33 Government Printing Office website, <http://www.gpo.gov/>.

34 (A) Industrial, Institutional & Structural is the only federal category regulated under the NC
35 Structural Pest Control Law and that category is divided into three subcategory phases. The
36 three subcategory phases and their subsequent competency standards are detailed in this
37 section.

1 (B) Household Pest Control: Applicators must demonstrate practical knowledge of household
2 pests, pest problems and pests that are important vectors of disease, including recognizing
3 the pests and signs of their presence, their habitats, their life cycles, biology, and behavior
4 as it may be relevant to problem identification and control. The required knowledge also
5 includes how to minimize damage to, and contamination of areas treated, acute and chronic
6 exposure of people and pets, and non-target exposures.

7 (C) Wood-Destroying Organisms: Applicators must demonstrate a practical knowledge of
8 wood-destroying organisms which may devour or destroy wood, wood products and other
9 cellulose material in, on, under in contact with and around structures, including recognizing
10 these pests and signs of their presence, their life cycles, biology, and behavior as it may be
11 relevant to problem identification, treatment and control. The required knowledge also
12 includes how to minimize damage to, and contamination of areas treated, acute and chronic
13 exposure of people and pets, and non-target exposures.

14 (D) Fumigation (non-soil): Applicators must demonstrate practical knowledge of the pest
15 problems and pest control practices associated with performing fumigation applications of
16 restricted use pesticides to sites other than soil such as enclosed spaces or structures,
17 including recognizing these pests and signs of their presence, their life cycles, biology, and
18 behavior as it may be relevant to problem identification, treatment, and control. The
19 required knowledge also includes how to minimize damage to, and contamination of areas
20 treated, acute and chronic exposure of people and pets, and non-target exposures.

21 (5) ~~All applicants passing the examination(s) for certified applicator's identification cards shall apply~~
22 ~~for said cards within six months from the date on which the examinations were taken. If such~~
23 ~~applicants fail to make application for said certified applicator's identification cards within the~~
24 ~~specified period, such applicants shall be required to take and satisfactorily pass reexaminations~~
25 ~~covering phases of structural pest control work for which certified applicator's identification cards~~
26 ~~were applied before said cards are issued.~~Any applicant making a score of 70 percent or more on
27 the core certification examination and on any certified applicator's examination(s) shall be issued a
28 certified applicator's identification card in that phase of structural pest control after submitting a
29 completed division's certified applicator card application with required fees therefor.

30 (6) ~~If an applicant fails to obtain a certified applicator's identification card within 12 months of passing~~
31 ~~the core examination the applicant shall take and pass a reexamination before being eligible for the~~
32 ~~card.~~All applicants passing the examination(s) for certified applicator's identification cards shall
33 apply for said cards within six months from the date on which the examinations were taken. If such
34 applicants fail to make application for said certified applicator's identification cards within the
35 specified period, such applicants shall be required to take and satisfactorily pass reexaminations
36 covering phases of structural pest control work for which certified applicator's identification cards
37 were applied before said cards are issued.

- (7) ~~Upon receipt of the application for examination, the Committee secretary shall provide the necessary exam pre-registration forms for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule. If an applicant fails to obtain a certified applicator's identification card within 12 months of passing the core examination the applicant shall take and pass a reexamination before being eligible for the card.~~
- (8) ~~If an applicant for a certified applicator's card fails an examination, he or she may review the examination at the next scheduled review session. Upon receipt of the application for examination, the Committee secretary shall provide the necessary exam pre-registration forms for the applicant to pre-register for the examination as required in Paragraph (c) of this Rule.~~
- (9) ~~Subparagraphs (a)(2), (5), (7), and (8) of this Rule shall also apply to all applicants for certified applicator's identification cards. If an applicant for a certified applicator's card fails an examination, he or she may review the examination at the next scheduled review session.~~
- (10) ~~Completion of the Registered Technician School shall be a prerequisite for the certification examination. Subparagraphs (a)(2), (5), (7), and (8) of this Rule shall also apply to all applicants for certified applicator's identification cards.~~
- (11) ~~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 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 completed application for examination.

(d) Frequency of examination by license applicant limited:

- (1) An applicant who fails to pass the license examination on his or her first attempt may retake the examination at any subsequent 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;

REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0309

DEADLINE FOR RECEIPT: January 17, 2025

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In (b)(4), did you mean incorporation by reference pursuant to 150B-21.6? If so, in line 27, replace "adopts" with "incorporates". You don't need to add the title "Incorporation by Reference", just implement the requirements of 150B-21.6 into the rule.

On pg. 2, line 1, please capitalize "continuing certification units" and add "(CCUs)" at the end.

At line 2, add "or her" after "his". Also, consider replacing the comma after "certification" with a semicolon and delete "and".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 34 .0309 is amended as published in 39:01 NCR 10-11 as follows:

02 NCAC 34 .0309 RECERTIFICATION

(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 or her discretion, may be recertified for another five year period by choosing one of the following options:~~ADOPTION BY REFERENCE: The North Carolina Structural Pest Control Committee, hereby adopts by reference for all Certified Applicators, Part 171.107 "Standards for recertification of commercial applicators" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B–Certification Requirements for Applicators of Restricted Use Pesticides" including subsequent amendments. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <http://www.gpo.gov/>.

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

~~(2) 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 shall be solely applicable to the phase in which recertification is desired;~~

~~(B) recertification in any two phases: 15 CCUs total, five of which shall 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 shall 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 shall 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 shall 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.~~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 or her 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; or

1 (2) For recertification after July 1, 2002: earning continuing certification units during the five years
2 immediately preceding the expiration date of his certification, and the number of CCUs required
3 shall be as follows:

4 (A) recertification in any one phase: 10 CCUs total, five of which shall be solely applicable to
5 the phase in which recertification is desired;

6 (B) recertification in any two phases: 15 CCUs total, five of which shall be solely applicable
7 to the first phase and five solely applicable to the second phase in which recertification is
8 desired;

9 (C) recertification in all three phases: 20 CCUs total, five of which shall be solely applicable
10 to the first phase, five solely applicable to the second phase, and five solely applicable to
11 the third phase in which recertification is desired;

12 (D) licensees and noncommercial certified applicators shall earn at least one of the required
13 continuing certification units established in Subparagraph (b)(2) of this Rule in at least four
14 years of the five- year recertification period;

15 (E) commercial certified applicators shall earn at least one of the required continuing
16 certification units established in Subparagraph (b)(2) of this Rule in at least three years of
17 the five-year recertification period; and

18 (F) continuing certification units shall not be carried forward beyond the five-year
19 recertification period.

20 (c) Licensees holding an inactive license shall be subject to the requirements of this rule.

21
22 *History Note: Authority G.S. 106-65.29;*
23 *Eff. July 1, 1976;*
24 *Readopted Eff. November 22, 1977;*
25 *Amended Eff. July 1, 1998; January 1, 1989; August 1, 1980;*
26 *Readopted Eff. June 1, 2020.*
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REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0313

DEADLINE FOR RECEIPT: January 17, 2025

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On the "Submission for Permanent Rule" form submitted for each of these rules, the second box under "6." has not been checked. Did your agency post the requirements listed in G.S. 150B-19.1(c)(1)-(5) on your agency's website no later than July 1, 2024?

In (a), line 11, add a comma after "hair". At line 12, add "and" after the semicolon.

In (c), line 18, how does the employer "certify to the Division" an employee meets all the requirements?

At line 19, consider deleting "as" before "set". Also, did you intend to use "(A)" in the cited Rule? It appears "(B)" is more appropriate.

In (d), line 21, what does it mean to "make application"?

At line 22, what is meant by "or its equivalent"? What does this entail?

At line 28, replace "the" with "a" before "licensee".

At line 31, add "or her" after "his".

In (e), line 35, why would the "Division" request the training materials? Wouldn't the employee or trainee request the training materials?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 34 .0313 is amended as published in 39:01 NCR 11-12 as follows:

**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 or her employee shall certify to the Division that the employee meets all the minimum requirements as set forth in 02 NCAC 34 .0101(b)(4)(A) and 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 equipment, methods, 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.

1 (g) Registered technicians shall complete an annual training in the safe operation of any equipment he or
2 she will use for mixing, loading, transferring, or applying pesticides.

3 (1) The person who conducts this training must meet one of the following criteria:

4 (A) Be currently licensed or certified in the phase that the technician is to be registered;

5 or

6 (B) Be currently designated as a trainer of registered technicians by the committee or
7 the director.

8
9 *History Note: Authority G.S. 106-65.29;*

10 *Eff. July 1, 1976;*

11 *Readopted Eff. November 22, 1977;*

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

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November*
14 *22, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0327

DEADLINE FOR RECEIPT: January 17, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the "Submission for Permanent Rule" form submitted for each of these rules, the second box under "6." has not been checked. Did your agency post the requirements listed in G.S. 150B-19.1(c)(1)-(5) on your agency's website no later than July 1, 2024?

At line 4, consider replacing the first "or" with a comma and adding a comma after the first "card".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 34 .0327 is amended as published in 39:01 NCR 12 as follows:

02 NCAC 34 .0327 LICENSES AND CARDS NOT ISSUED TO PERSONS UNDER 18

No license certificate or certified applicator's identification card or registered technician'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;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0604

DEADLINE FOR RECEIPT: January 17, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the "Submission for Permanent Rule" form submitted for each of these rules, the second box under "6." has not been checked. Did your agency post the requirements listed in G.S. 150B-19.1(c)(1)-(5) on your agency's website no later than July 1, 2024?

In (a)(1), line 8, consider adding "each" or "all" before "pesticides(s)".

At line 9, consider adding "a" before "pesticide".

At line 10, consider adding "the" before "EPA".

In (a)(4), line 12, please cross reference where the definition of "restricted used pesticides" can be found (G.S. 106-65.24(21)).

At line 14, add a comma after "Rule".

In (5), please delete "In addition," to start the sentence with "For ..."

In (c), line 27, add an "s" to the end of "pesticide".

At line 28, add an "s" to the end of "pesticide".

At line 32, add "the" before "EPA".

At line 36, delete "for" after "provided".

On pg. 2, line 3, how does the regulated public obtain a copy of the "form prescribed"? Also, please delete "at least".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency: January 3, 2025

02 NCAC 34 .0604 is amended as published in 39:01 NCR 12-13 as follows:

02 NCAC 34 .0604 WOOD-DESTROYING ORGANISMS RECORDS

(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;~~ All record keeping requirements required by EPA under 40 CFR Part 171.303(b)(7)(vi);
- (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~~ .0503, .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;~~ All record keeping requirements required by EPA under 40 CFR Part 171.303(b)(7)(vi).

(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;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0703

DEADLINE FOR RECEIPT: January 17, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the "Submission for Permanent Rule" form submitted for each of these rules, the second box under "6." has not been checked. Did your agency post the requirements listed in G.S. 150B-19.1(c)(1)-(5) on your agency's website no later than July 1, 2024?

In (a)(2), line 8, please add "the" before "company" and add a comma after "licensee".

At line 9, add a comma after "representatives" and add "the" before "licensee."

In (5), consider adding "each" or "all" before "pesticide(s)."

At line 15, add "the" before "EPA".

In (b)(6), add "the" before "EPA."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 34 .0703 is amended as published in 39:01 NCR 13 as follows:

02 NCAC 34 .0703 WRITTEN RECORDS OF HOUSEHOLD PEST CONTROL

(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 or her 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;~~
- ~~(6) All record keeping requirements required by EPA under 40 CFR Part 171 .0303(b)(7)(vi);~~
- (7) Name of licensee, certified applicator, or registered technician making the application; and
- (8) For "restricted use pesticides," as defined in G.S. 106-65.24(21), 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.~~ All record keeping requirements required by EPA under 40 CFR Part 171.303(b)(7)(vi).

(c) Records shall 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;

Readopted Eff. June 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0803

DEADLINE FOR RECEIPT: January 17, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the "Submission for Permanent Rule" form submitted for each of these rules, the second box under "6." has not been checked. Did your agency post the requirements listed in G.S. 150B-19.1(c)(1)-(5) on your agency's website no later than July 1, 2024?

At line 5, please spell out which "Committee" you're referring to the first time it's used in a rule.

In (a)(1), line 7, add "or her" after "his".

At line 8, add "the" before company and add a comma after "applicator". At line 9, add a comma after "representative."

In (a)(7), line 14, please cross reference where the definition of "restricted used pesticides" can be found (G.S. 106-65.24(21)). Also, line 15, add "the" before "EPA."

In (a)(12), consider adding "the requirements under" before "02 NCAC..."

In (b)(8), line 36, add "the" before "EPA."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

02 NCAC 34 .0803 is amended as published in 39:01 NCR 13-14 as follows:

02 NCAC 34 .0803 WRITTEN RECORDS OF FUMIGATION

(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;~~ all record keeping information required by EPA under 40 CFR Part 171.303(b)(7)(vi);
- (8) ~~Total amount of fumigant applied; Date and time of application;~~
- (9) ~~Name of licensee or certified applicator performing the fumigation;~~ Total amount of fumigant applied;
- (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;~~ Name of licensee or certified applicator performing the fumigation;
- (11) ~~If the pest to be fumigated is a wood-destroying organism, all of 02 NCAC 34 .0605 shall be followed.~~ For restricted use pesticides, the information required by Subparagraphs (a)(5), (6), (8), and (9) of this Rule shall also be included on the customers copy of the written agreement or service record; and
- (12) 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 and time of application; and
- (8) ~~Any information required by EPA.~~ All record keeping information required by EPA under 40 CFR Part 171.303(b)(7)(vi).

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

3
4 *History Note: Authority G.S. 106-65.29;*

5 *Eff. July 1, 1976;*

6 *Readopted Eff. November 22, 1977;*

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

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November*
9 *22, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC .0902

DEADLINE FOR RECEIPT: January 17, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the "Submission for Permanent Rule" form submitted for each of these rules, the second box under "6." has not been checked. Did your agency post the requirements listed in G.S. 150B-19.1(c)(1)-(5) on your agency's website no later than July 1, 2024?

At line 4, please delete "financial responsibility in the form of" as it appears unnecessary.

At line 5, consider adding "pesticide" before "operations."

At lines 5-6, must part-time employees be covered by the insurance policy?

In (c), line 14, to whom shall the applicant "show evidence" of financial ability?

At line 15, please delete "properly" as it's vague. Also, what is the purpose of the word "suffering"? Is it necessary or can it be defined?

In (d), line 17, please delete "clearly" as it's vague.

At line 18, consider moving "an endorsement" to before "attached" for clarity.

At line 19, add a comma after "pesticide".

In (f), line 31, what criteria or factors are used to determine "satisfactory proof"?

On pg. 2, (h), lines 1-2, consider replacing "where there exists" with "when" and add "exists" after "judgment".

At line 2, consider deleting "civil suit arising out".

At line 6, add a comma after "license".

At line 7, add a comma after "license".

Travis Wiggs
Rules Review Commission Counsel
Submitted to Agency: January 3, 2025

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road,
Raleigh, North Carolina 27609.

02 NCAC 34 .0902 is amended as published in 39:01 NCR 14 as follows:

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.

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

7 (i) Paragraphs (a) through (g) of this Rule shall not apply to any person holding an inactive license as defined by ~~2~~
8 ~~NCAC 34 .0102(30).~~ NCAC 34 .0102(31).

9
10 *History Note: Authority G.S. 106-65.37;*

11 *Eff. July 1, 1976;*

12 *Readopted Eff. November 22, 1977;*

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

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November*
15 *22, 2018.*