02 NCAC 34 .0328 is amended with changes as published in 31:01 NCR 1 as follows:

3 02 NCAC 34 .0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

4 (a) All required structural pest control records and pesticides records, pesticides, and application equipment used by the

- 5 licensee or noncommercial certified applicator shall be maintained at the office location to which the license or certified
- 6 applicator's card is issued. During inspections the licensee or his employee shall be present to provide access to all structural
- 7 <u>pest control records</u>, [pesticides] pesticides, and application equipment, upon request by the Division.
- 8 (b) Notwithstanding the requirements of Paragraph (a) of this Rule, a licensee may request permission, annually, from the
- 9 Division, Division to maintain records, pesticides, and application equipment in a location other than the office location
- 10 specified in Paragraph (a) of this Rule. In determining whether or not to grant such permission, the Division shall ensure that
- 11 its ability to regulate the licensee will not be adversely affected by granting the request. The Division shall grant such
- 12 permission if its ability to regulate the licensee will not be adversely affected by granting the request.
- 13 (c) All such records, pesticides, and equipment shall be made available for inspection during regular business hours upon
- 14 request by the Division.
- 15
- 16 History Note: Authority G.S. 106-65.29;
- 17 *Eff. August 1, 1980;*
- 18 Amended Eff. January 1, 2017; July 1, 1998; January 1, 1989.
- 19
- 20 21
- 22

1	02 NCAC 34 .0	502 is amended with changes as published in 31:01 NCR 1-2 as follows:	
2	02 NCAC 34 .0	502 PESTICIDES FOR SUBTERRANEAN TERMITE PREVENTION AND/OR	
3		CONTROL	
4	(a) Through Ju	ne 30, 1999, any pesticide may be used for the prevention or control of subterranean termites provided	
5	that it bears an l	EPA-approved label for such use and the pesticide is applied according to the directions of its label.	
6	(b)(a) Effective	July 1, 1999, only Only those products which bear an EPA-approved label for such use and for which	
7	the Committee l	has received the following information may be used for subterranean termite control:	
8	(1)	A statement from the pesticide registrant that the termiticide is primarily intended, intended either for	
9		use:	
10		(A) as a supplement to or in combination with other treatment(s); or	
11		(B) by itself, as the sole source of termite control; and	
12	(2)	For termiticides under Part (b)(a)(1)(B) of this Rule: Rule, data to support all efficacy claims made on	
13		the label, labeling and any promotional materials distributed by the registrant or manufacturer.	
14		(A) data to support all efficacy claims made on the label, [labeling] labeling, and any promotional	
15		materials distributed by the registrant or manufacturer; and	
16		(B) if the Committee approves a termiticide under Part (a)(1)(B) and the Directions for Use	
17		differ from the requirements of Rules .0503, [.0505 or .0506,] <u>.0505, or .0506 of this</u>	
18		Chapter, the committee may determine that treatments with those termiticides are exempt	
19		from all or part of the requirements of Rules .0503(a)(4) and (6) through (11), [-0505] .0505,	
20		or .0506 of this Chapter, [provided:] provided that the product is labeled for protection of	
21		the entire structure and the licensee provides a warranty for the control of subterranean	
22		termites on the entire structure.	
23	(c)(b) Effective	July 1, 2002, only Only those products approved by the Committee based on the data submitted pursuant	
24	to Subparagraph (b)(a)(2) of this Rule may be used for the prevention or control of subterranean termites. termites as the		
25	sole source of ter	<u>mite control or prevention</u> . The Committee shall approve the product if the data submitted substantially	
26	supports the eff	icacy claims.	
27	(d)(c) Termitici	ides intended for use as a supplement to or in combination with other termiticides may shall not be used	
28	alone without fi	rst disclosing the registrants' recommendations to the property owner or agent.	
29	(e)(d) A list of	approved termiticides may be obtained by writing the North Carolina Department of Agriculture and	
30	Consumer Servi	ices, Structural Pest Control and Pestcides Division, P.O. Box 27647, Raleigh, NC 27611 1090 Mail	
31	Service Center,	<u>Raleigh, NC 27699-1090,</u> or by calling (919) 733-6100.	
32			
33	History Note:	Authority G.S. 106-65.29;	
34		Eff. July 1, 1976;	
35		Readopted Eff. November 22, 1977;	
36		Amended Eff. January 1, 2017; July 18, 2002; July 1, 1998; August 1, 1980.	
37			

2			
3	02 NCAC 34 .05	03 SUBTERRANEAN TERMITE CONTROL: BUILDINGS AFTER	
4		CONSTRUCTED CONSTRUCTION	
5	(a) The following	g standards and requirements apply to the treatment of a building for subterranean termite control afte	r
6	construction if th	e building has a basement or crawl space:	
7	(1)	Access openings shall be provided to permit inspection of all basement and crawl space areas of a	a
8		building and all open porches.	
9	(2)	Clean up and remove all wood debris and cellulose material, such as wood, paper, and cloth	l,
10		contacting soil in all crawl space areas. This excludes shavings or other cellulose material too small to	0
11		be raked with the tines of an ordinary garden rake. Remove all visible stumps from all crawl space	e
12		areas. Remove all visible form boards in contact with soil.	
13	(3)	Remove all earth which is within 12 inches of the bottom edges of floor joists or within eight inches of	f
14		the bottom edges of subsills or supporting girders, but not below footings of foundation walls. I	f
15		foundation footings are less than 12 inches below the bottom edges of joists or subsills or joists	, ,
16		subsills, or supporting girders, a bank of soil 12 inches to 18 inches wide shall be left adjacent to	C
17		footings for the purpose of support. Clearance shall be adequate to provide passage of a person to al	1
18		crawl space areas of a building.	
19	(4)	All visible termite tubes or tunnels on pillars, pilasters, foundation walls, chimneys, step buttresses	,
20		sills, pipes, and other structures below the sill line shall be removed.	
21	(5)	Eliminate all wooden parts making contact with the building and soil, either outside or inside, a	s
22		follows:	
23		(A) No wood of any access opening shall be in contact with the soil.	
24		(B) Where wood parts such as door frames, partition walls, posts, stair carriages, or other wood	d
25		parts can be reasonably ascertained to be making direct soil contact through concrete o	r
26		where there is evidence of termite activity or damage damage, such wood parts they shall be	e
27		cut off above the ground or floor level level, the wood shall be <mark>and the wood</mark> removed fron	n
28		the concrete; <u>concrete</u>, and the <u>resulting</u> hole shall be filled with concrete or covered with a	a
29		metal plate, plate after the point of contact has been treated with a termiticide.	
30		(C) Where wood parts such as vertical wood supports or other wood parts under a building o	r
31		steps outside a building are not resting on solid masonry or concrete bases extending at leas	t
32		two inches above the soil surface or are in direct soil contact and such supports or steps are	e
33		not removed, the supports and steps shall be cut off and set on a solid masonry or concrete	e
34		footing extending at least two inches above the ground after the point of contact has been	n
35		treated with a termiticide.	
36		(D) When wood skirting and lattice work are suspended, there shall be at least a two-incl	h
37		clearance between the top of the soil and the bottom edges of the wood skirting or lattice	e

02 NCAC 34 .0503 is amended with changes as published in 31:01 NCR 2-4 as follows:

1		work. If the two-inch clearance is not acceptable to the property owner, it may be closed
2		with solid masonry or concrete concrete, but a minimum clearance of one-fourth of one inch
3		shall be provided between the masonry or concrete and wood.
4		(E) Where houses or decks are built on pressure treated pressure-treated wood pilings, pillars, or
5		all-weather wood foundations, such pilings, pillars, and wood foundation members, including
6		wood step supports, are not subject to $\frac{Parts Subparagraphs}{Parts Subparagraphs}$ (a)(5)(A), (B), or (C) of this Rule.
7	(6)	Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids
8		in multiple masonry foundation and bearing walls and all voids created by their placement at and a
9		minimum distance of four feet in all directions from such evidence. Porch foundation walls shall be
10		drilled and treated to a distance of three feet from the main foundation wall and the point of contact
11		with any wooden members. Drill as follows:
12		(A) The distance between drill holes shall not exceed 16 lineal inches and holes shall be no more
13		than 16 inches above the footing $\frac{\partial F}{\partial r}$ for footings deeper than 16 inches, immediately above
14		the lowest soil level.
15		(B) Test drill the main foundation wall behind any porch or slab area to determine if the porch or
16		slab is supported by a wall whose placement creates a void between itself and the main
17		foundation wall. If test reveals that a void exists, drill and treat all voids therein as specified
18		in this Rule.
19	(7)	Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids
20		in all multiple masonry pillars, pilasters, chimneys, and step buttresses associated or in contact with
21		such evidence, evidence and any void created by their placement. Drill as follows:
22		(A) The distance between drill holes shall not exceed 16 lineal inches and shall be no more than
23		16 inches above the footing $\frac{\partial r}{\partial r}$ for footings deeper than 16 inches, immediately above the
24		lowest soil level.
25		(B) Drilling is not required if solid concrete masonry footings of pillars, pilasters, chimneys, or
26		step buttresses extend eight inches or more above top of the soil surface.
20 27	(8)	Where concrete slabs over dirt-filled areas are at the level of, above the level of, or in contact with,
28		with wood foundation members, treat dirt-filled areas with a termiticide as follows:
20 29		(A) Drill vertically three-eighths of one inch or larger holes in the slab, no more than six inches
30		from the building foundation, foundation at no more than 12-inch intervals intervals, and
31		treat soil below slab from the bottom of the slab to the top of the footing; or
32		(B) Drill horizontally three-eighths of one inch or larger holes in the foundation wall of the
33		concrete slab, no more than six inches from the building foundation, foundation every 16
33 34		vertical inches starting immediately below the bottom of the slab, and rod treat all soil
34 35		adjacent to building foundation from the bottom of the slab to the lowest outside grade.
35 36	(9)	
	(9)	Trench or trench and rod treat soil to establish a continuous termiticide barrier in the soil adjacent to,
37		but not more than six inches from, from:

- 1
 (A)
 all pillars, pilasters, chimneys, pressure treated pressure-treated wood supports, and step

 2
 buttresses;
- 3 (B) inside of foundation walls;

- (C) outside of foundation walls; and
- 5 (D) the outside of foundation walls of concrete slabs over dirt-filled areas, and the entire 6 perimeter of a slab foundation wall from the top of the grade to the top of the footing or to a 7 minimum depth of 30 inches, whichever is less.
- 8 Where footings are exposed, treatment shall be performed adjacent to the footing but not below the 9 bottom of the footing. The trench shall be no less than six inches in depth or to the bottom of the 10 footing, whichever is less. Where outside concrete slabs adjacent to the foundation prevent trenching 11 of soil, drill three-eighths of one inch or larger holes, not more than 12 inches apart and within six 12 inches of the foundation wall, through slabs or through adjoining foundation wall, and rod treat soil 13 below slabs as indicated above to establish a continuous termiticide barrier at all known points of 14 entry. The soil immediately around pipes and other utility conduits making contact with the structure 15 shall be treated.
- (10)Where stucco on wood or similar type materials, including extruded or expanded rigid foam insulation 16 17 or similar materials, are installed on wood and extend to or below grade, trench soil to a depth below 18 and under the edge of the stucco or similar type materials and treat soil to establish a continuous 19 termiticide barrier in the soil. After the soil has been treated, a masonry barrier wall may be erected to 20 hold back the soil from making direct contact with the stucco or similar type materials. Where outside 21 slabs on grade adjacent to foundation prevent trenching of soil, drill three-eighths of one inch or larger 22 holes through slabs within six inches of the foundation wall, wall or through adjoining foundation 23 wall, not more than 12 inches apart apart, and rod treat soil below slabs. Where drain tile, french 24 drains, or other foundation drainage systems present a hazard of contamination outside the treatment 25 zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage 26 system.
- (11) <u>The requirements set forth in</u> Paragraph (b) of this Rule shall be followed if applicable to basement or
 crawl space construction.
- (b) The following standards and requirements <u>shall</u> apply to the treatment of a building for subterranean termite control
 after construction if the building has a slab-on-ground construction:
- 31 (1) Treat soil to establish a continuous termiticide barrier in, under, and around, around all traps and
 32 openings in the slab.
- 33(2)Drill vertically three-eighths inch or larger holes, holesat all visible or known expansion and34construction joints, cracks, and crevices in slab and around all utility conduits in the slab at no more35than 12-inch intervals and rod treat soil below slab to establish a continuous termiticide barrier from36the bottom of the slab to a depth of 30 inches or to the top of the footing, whichever is less, at all37known points of entry. Where wooden structural members are in contact with concrete or masonry

1		floors which have joints or cracks beneath the wooden structural members, including wall plates in
2		utility or storage rooms adjoining the main building, the concrete or masonry shall be drilled and
3		treated in order to achieve treatment of the soil beneath them. them: however, As an exception,
4		expansion and construction joints at the perimeter of the exterior wall may be rod treated by drilling
5		through the foundation wall at no more than 12-inch intervals directly below the bottom of the slab.
6	(3)	The requirements set forth in Paragraph (a) of this Rule shall also be followed, where applicable.
7	(c) Reapplication	on of Pesticide(s) to a Structure Previously Treated for Subterranean Termite Control:
8	(1)	A reapplication of termiticide is required <u>Termiticide shall be reapplied</u> if soil test by the Division
9		reveals that the soil is deficient in the termiticide which was applied to the soil.
10	(2)	Any reapplication of pesticides under this Rule shall be in accordance with the label of the pesticide
11		used.
12	(d) A licensee	may enter into a written agreement for the control or prevention of subterranean termites in a building
13	after it has been	constructed without having to abide by comply with Paragraphs (a) and (b) of this Rule provided that:
14	(1)	The licensee has written proof that he or his <u>he or she or his or her</u> authorized agent treated the entire
15		building for subterranean termites at the time of its construction as required in 02 NCAC 34 .0505 or
16		02 NCAC 34 .0506 (or comparable rules in effect at the time of treatment); and
17	(2)	A written agreement is issued in compliance with 02 NCAC 34 .0605.
18	(e) Paragraphs	(a)(3), (a)(6) through (a)(11) and (b) of this Rule $\frac{d\Theta}{d\Theta}$ shall not apply to subterranean termite treatment
19	performed using	g termite bait(s) labeled for protection of the entire structure when if the licensee provides a warranty for
20	the control of su	ubterranean termites on the entire structure.
21	(f) If the license	e uses a termiticide that has been approved by the Committee pursuant to 02 NCAC 34 .0502(a)(2)(B) and
22	the licensee com	plies with the requirements of that subsection, the licensee [is excused from complying] shall not be required
23	to comply with 0	2 NCAC 34.0503(a)(4) and (a)(6) through (11). For a list of termiticides the Committee has approved under
24	02	NCAC 34 .0502(a)(2)(B), see
25	http://www.ncag	r.gov/SPCAP/structural/documents/TTermiticidesApprovedForUseInNorthCarolinapdf.pdf.
26		
27		
28	History Note:	Authority G.S. 106-65.29;
29		Eff. July 1, 1976;
30		Readopted Eff. November 22, 1977;
31		Amended Eff. August 1, 1980;
32		Temporary Repeal Eff. August 24, 1987 for a period of 30 days to expire on September 22, 1987;
33		Temporary Repeal Expired Eff. September 22, 1987;
34		Amended Eff. January 1, 1989;
35		Temporary Amendment Eff. January 10, 1997;
36		Temporary Amendment Expired Eff. October 31, 1997;
37		Amended Eff. <u>January 1, 2017;</u> July 1, 2010; August 1, 2002; July 1, 1998.

02 NCAC 34 .0505 is amended with changes as published in 31:01 NCR 4-5 as follows:

2 3 SUBTERRANEAN TERMITE PREVENTION/RES BLDGS UNDER CONST 02 NCAC 34 .0505 4 (a) All treatments performed pursuant to this Rule shall only be performed at the label recommended rate and concentration only. concentration. 5 6 (b) The following standards and requirements shall apply to the treatment of a building for subterranean termite control 7 during construction if the building has a basement or crawl space: 8 Establish a vertical termiticide barrier in the soil by trenching or trenching and rodding along the (1)9 inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, 10 pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the 11 grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where footings 12 are exposed, treatment shall be performed adjacent to the footing but not below the bottom of the 13 footing. Trench The trench shall be no less than six inches in depth or to the bottom of the footing, 14 whichever is less. Where drain tile, french drains, or other foundation drainage systems present a 15 hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will 16 not introduce termiticide into the drainage system. 17 (2) After a building or structure has been completed and the excavation filled and leveled, leveled so that 18 the final grade has been reached along the outside of the main foundation wall, establish a vertical 19 termiticide barrier in the soil by trenching or trenching and rodding adjacent to the outside of the main 20 foundation wall with a termiticide from the top of the grade to the top of the footing or to a minimum 21 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 The trench shall be no less 22 23 than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, french 24 drains, or other foundation drainage systems present a hazard of contamination outside the treatment 25 zone, treatment shall be performed in a manner that will not introduce termiticide into the drainage 26 system. 27 (3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under 28 slabs, such as patios, walkways, driveways, terraces, gutters, etc., attached to the building. Treatment 29 The treatment shall be performed before slab is poured, poured but after fill material or fill dirt has 30 been spread. 31 (4) Establish a horizontal termiticide barrier in the soil under the entire surface of floor slabs, such as 32 basements, porches, entrance platforms, garages, carports, breezeways, sun rooms, etc. and sun 33 rooms. The treatment shall be performed before slab is poured but after fill material or fill dirt has 34 been spread. 35 (5) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and 36 construction joints and plumbing and utility conduits, at their point of penetration of the slab or floor 37 or, for crawl space construction, at the point of contact with the soil.

1	(6)	If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by 02	
2		NCAC 34 .0503(a) or (b): Except that; (b) except that the buyer of the property or his or her	
3		authorized agent may release the licensee from further treatment of slab areas under this Rule provided	
4		such release is obtained in writing on the Subterranean Termite Sub-Slab Release Form provided by	
5		the <mark>Division, Division. This form which shall contain contain;</mark>	
6		(A) the name of the builder, builder;	
7		(B) the address of property, the property;	
8		(C) an identification of the slab areas not treated, treated;	
9		(D) the name and address of the structural pest control company company; and	
10		(E) shall be signed by the company representative and the home buyer.	
11		This form may be obtained by writing the North Carolina Department of Agriculture and Consumer	
12		Services, Structural Pest Control and Pesticides Division, 1001 1090 Mail Service Center, Raleigh,	
13		NC 27699-1001 27699-1090 or by calling (919) 733-6100.	
14	(c) Slab-on-Grou	nd Construction. All parts of The requirements set forth in Paragraph (a) of this Rule shall be followed,	
15	as applicable, in	treating slab-on-ground construction.	
16	(d) All treating r	equirements specified in this Rule shall be completed within 60 days following the completion of the	
17	structure, as described in Subparagraph (b)(2) of this Rule.		
18	(e) Paragraphs (b	b) and (c) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s)	
19	labeled for protect	ction of the entire structure when if the licensee provides a warranty for the control of subterranean	
20	termites on the er	ntire structure.	
21	(f) Paragraphs (b) and (c) of this Rule shall not apply to subterranean termite treatment performed using EPA registered	
22	topically applied	wood treatment termiticides labeled for the protection of the entire structure when if the licensee applies	
23	the material accord	rding to labeled directions and provides a warranty for the control of subterranean termites on the entire	
24	structure.		
25	(g) No later than	n the date of the completion of any treatment performed under this Rule, the licensee or his or her	
26	employee shall pl	ace a durable sticker/label, no less than three inches square, on the meter base, circuit breaker box.	
27	<mark>or</mark> inside surface o	of kitchen cabinet <mark>door,</mark> or other readily noticeable location <mark>providing, at a minimum, providing</mark> the	
28	following inform	ation:	
29	(1)	The statement: "This structure was treated for the prevention of subterranean termites. A warranty	
30		has been issued to the builder. If you did not receive your copy of this warranty at closing, contact	
31		your builder or the company below for additional warranty information." in boldface type;	
32	(2)	Name, The name, address address, and telephone number of the company performing the treatment;	
33		and	
34	(3)	Date The date of final treatment.	
35	h) If the licensee u	uses a termiticide that has been approved by the Committee pursuant to 02 NCAC 34.0502(a)(2)(B) and the	
26	1. 1.		

36 licensee complies with the requirements of that subsection, the licensee [is excused from complying] shall not be required to

comply with 02 1	NCAC 34.0505. For a list of termiticides the Committee has approved under 02 NCAC 34.0502 (a)(2)(B).
see	
http://www.ncag	r.gov/SPCAP/structural/documents/TTermiticidesApprovedForUseInNorthCarolinapdf.pdf.
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, 2017; July 1, 2004; August 1, 2002; April 1, 2001; July 1, 1998; January 1,
	1991; January 1, 1989.
	see http://www.ncag

1 02 NCAC 34 .0506 is amended with changes as published in 31:01 NCR 5-6 as follows: 2 3 02 NCAC 34 .0506 MIN REQUIRE/SUBTERRANEAN TERMITE PREV/COMMERCIAL BLDGS 4 UNDER CONST 5 (a) All treatments performed pursuant to this Rule shall be performed at the label recommended rate and concentration 6 only. 7 (b) Minimum Treatment Requirements: 8 Establish a vertical termiticide barrier in the soil by trenching or trenching and rodding along the (1)9 inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, 10 pilasters, and piers; and both sides of partition or inner walls with a termiticide from the top of the 11 grade to the bottom of the footing or a minimum depth of 30 inches, whichever is less. Where 12 footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of 13 the footing. Trench The trench shall be no less than six inches in depth or to the bottom of the footing, 14 whichever is less. Where drain tile, french drains, or other foundation drainage systems present a 15 hazard of contamination outside the treatment zone, treatment shall be performed in a manner that will 16 not introduce termiticide into the drainage system. 17 (2) After a building or structure has been completed and the excavation filled and leveled, leveled so that 18 the final grade has been reached along the outside of the main foundation wall, establish a vertical 19 termiticide barrier in the soil adjacent to the outside of the main foundation wall by trenching or 20 trenching and rodding with a termiticide from the top of the grade to the top of the footing or to a 21 minimum depth of 30 inches, whichever is less. Where footings are exposed, treatment shall be 22 performed adjacent to the footing and not below the bottom of the footing. Trench The trench shall be 23 no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain tile, 24 french drains, or other foundation drainage systems present a hazard of contamination outside the 25 treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the 26 drainage system. 27 (3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, and gutters, etc. gutters. Treatment The treatment 28 29 shall be performed before slab is poured but after fill material or fill dirt has been spread. 30 (4) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and 31 construction joints and plumbing and utility conduits, at their point of penetration of the slab of floor, 32 or for crawl space construction, at the point of contact with the soil. 33 (5) If concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by 02 34 NCAC 34 .0503(a) or (b). 35 (c) Paragraph (b) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s) labeled 36 for protection of the entire structure when if the licensee provides a warranty for the control of subterranean termites on

37 the entire structure.

38	(d) Paragraph (b) of this Rule shall not apply to subterranean termite treatments using EPA registered topically applied
39	wood treatment termiticides labeled for the protection of the entire structure and the licensee applies the material
40	according to labeled directions and provides a warranty for the control of subterranean termites on the entire structure.
41	When foundation areas contain no wood or cellulose components and the wood treatment termiticide cannot be applied
42	according to label directions directions, then applications specified in Paragraph (b) or (c) of this Rule would shall be
43	required.
44	(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
45	licensee complies with the requirements of that subsection, the licensee [is excused from complying] shall not be required to
46	comply with 02 NCAC 34.0506. For a list of termiticides the Committee has approved under 02 NCAC 34.0502 (a)(2)(B),
47	see
48	http://www.ncagr.gov/SPCAP/structural/documents/TTermiticidesApprovedForUseInNorthCarolinapdf.pdf.
49 50 51 52 53 54	History Note: Authority G.S. 106-65.29; Eff. January 1, 1991; Amended Eff. <u>December 1, 2016;</u> August 1, 2002; April 1, 2001; July 1, 1998.



STATE OF NORTH CAROLINA **OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address: 6714 Mail Service Center Raleigh, NC 27699-6714

Street address: 1711 New Hope Church Rd Raleigh, NC 27609-6285

November 17, 2016

Via Email Only: christina.waggett@ncagr.gov Christina L. Waggett, Rulemaking Coordinator Structural Pest Control Committee 1001 Mail Service Center Raleigh, NC 27699-1001

Re: 02 NCAC 34 .0328, .0502, .0503, .0505, and .0506

Dear Ms. Weggett:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the rulemaking coordinator to extend the period in order to allow the agency additional time to make technical changes.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Jason Thomas **Commission Counsel**

Administration 919/431-3000 fax:919/431-3100 fax: 919/431-3104

Rules Division 919/431-3000

Judges and Assistants 919/431-3000 fax: 919/431-3100

Clerk's Office 919/431-3000 fax: 919/431-3100

Rules Review Commission 919/431-3000 fax: 919/431-3104

Civil Rights Division 919/431-3036 fax: 919/431-3103

An Equal Employment Opportunity Employer

Thomas, Jason S

From:	Waggett, Christina
Sent:	Tuesday, November 15, 2016 9:17 AM
То:	Thomas, Jason S
Subject:	Request to Extend the Period of Review

Jason,

I am requesting and extension for the period of review for the following Structural Pest Control Committee Rules: 02 NCAC 34 .0328, .0502, .0503, .0505 and .0506. If you have any questions, or need anything further, please let me know.

Thank you, Chrissy

Chrissy Waggett | Federal Liaison | NC Department of Agriculture and Consumer Services | 1001 MSC, Raleigh, NC 27699 | 919-707-3008 (direct) | 919-414-1350 (cell)

<u>NC Department of Agriculture; NC Friends of Agriculture Foundation; Commissioner's Food Safety Forum; NC Ag</u> <u>Development Forum</u>

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0328

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

<u>NOTE WELL:</u> This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 4 and 7 – revise as follows: "... records, pesticides, and application equipment..."

Line 9 – delete the comma after "Division"

Lines 10-11 – does the Division consider other factors in deciding whether to grant the request? If so, please list or describe these factors.

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

02 NCAC 34 .0328 is amended as published in 31:01 NCR 1 as follows:

3 02 NCAC 34 .0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

4 (a) All required structural pest control records and pesticides and application equipment used by the licensee or

- 5 noncommercial certified applicator shall be maintained at the office location to which the license or certified applicator's card
- 6 is issued. During inspections the licensee or his employee shall be present to provide access to all structural pest control

7 records, pesticides and application equipment, upon request by the Division.

- 8 (b) Notwithstanding the requirements of Paragraph (a) of this Rule, a licensee may request permission, annually, from the
- 9 Division, to maintain records, pesticides, and application equipment in a location other than the office location specified in
- 10 Paragraph (a) of this Rule. In determining whether or not to grant such permission, the Division shall ensure that its ability to
- 11 regulate the licensee will not be adversely affected by granting the request.
- 12 (c) All such records, pesticides, and equipment shall be made available for inspection during regular business hours upon
- 13 request by the Division.
- 14
- History Note: Authority G.S. 106-65.29;
 Eff. August 1, 1980;
 Amended Eff. <u>December 1, 2016;</u> July 1, 1998; January 1, 1989.

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0502

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

<u>NOTE WELL:</u> This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 8 – delete the comma

Line 13 – add a comma after "labeling"

Line 14 – this line should end with either "and" or "or"

Line 16 – replace ".0503, .0505 or .0506," with "Rules .0503, .0505, or .0506 of this Chapter,"

Line 18 – replace ".0503(a)(4) and (6) through (11), .0505 or .0506 provided:" with "Rules .0503(a)(4) and (6) through (11), .0505, or .0506 of this Chapter, provided that:"

Line 19 - this line should end with either "and" or "or"

Line 24 - delete or define "substantially"

Line 26 – replace "may" with "shall"

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

1	02 NCAC 34 .05	502 is am	ended as j	published in 31:01 NCR 1-2 as follows:
2	02 NCAC 34 .0502		PESTICIDES FOR SUBTERRANEAN TERMITE PREVENTION AND/OR	
3			CONTI	ROL
4	(a) Through Jun	ie 30, 199	9, any pe	sticide may be used for the prevention or control of subterranean termites provided
5	that it bears an E	EPA-appro	oved labe	for such use and the pesticide is applied according to the directions of its label.
6	(b)(a) Effective	July 1, 19	999, only	Only those products which bear an EPA-approved label for such use and for which
7	the Committee h	as receiv	ed the fol	lowing information may be used for subterranean termite control:
8	(1)	A stater	nent from	the pesticide registrant that the termiticide is primarily intended, either for use:
9		(A)	as a sup	plement to or in combination with other treatment(s); or
10		(B)	by itself	, as the sole source of termite control; and
11	(2)	For tern	niticides u	under Part (b)(a)(1)(B) of this Rule: Rule, data to support all efficacy claims made on
12		the labe	l, labeling	g and any promotional materials distributed by the registrant or manufacturer.
13		<u>(A)</u>	data to s	upport all efficacy claims made on the label, labeling and any promotional materials
14		<u>distribu</u>	ted by the	e registrant or manufacturer;
15		<u>(B)</u>	if the C	ommittee approves a termiticide under Part (a)(1)(B) and the Directions for Use
16			<u>differ fr</u>	om the requirements of .0503, .0505 or .0506, the committee may determine that
17			treatmen	nts with those termiticides are exempt from all or part of the requirements of
18			<u>.0503(a)</u>	(4) and (6) through (11), .0505 or .0506 provided:
19			<u>(i)</u>	the product is labeled for protection of the entire structure,
20			<u>(ii)</u>	the licensee provides a warranty for the control of subterranean termites on the
21				entire structure.
22	(c)(b) Effective	July 1, 20	02, only (Only those products approved by the Committee based on the data submitted pursuant
23	to Subparagraph (b)(a)(2) of this Rule may be used for the prevention or control of subterranean termites. termites as the			
24	sole source of termite control or prevention. The Committee shall approve the product if the data submitted substantially			
25	supports the efficiency	cacy clair	ns.	
26	(d)(c) Termiticio	des intend	led for use	e as a supplement to or in combination with other termiticides may not be used alone
27	without first disc	closing th	e registra	nts' recommendations to the property owner or agent.
28	(e)(d) A list of a	approved	termiticio	les may be obtained by writing the North Carolina Department of Agriculture and
29	Consumer Servie	ces, Struc	tural Pes	t Control and Pestcides Division, P.O. Box 27647, Raleigh, NC 27611 1090 Mail
30	Service Center, 1	Raleigh, I	NC 27699	<u>-1090, or by calling (919) 733-6100.</u>
31				
32	History Note:	Authori	ty G.S. 10	<i>16-65.29;</i>
33		Eff. July	y 1, 1976;	
34		Readop	ted Eff. N	ovember 22, 1977;
35		Amende	ed Eff. <u>De</u>	<u>ecember 1, 2016;</u> July 18, 2002; July 1, 1998; August 1, 1980.
36				

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0503

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

<u>NOTE WELL:</u> This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

[Note: please renumber each page, beginning with 1. See 26 NCAC 02C .0108(1)(f).]

[Note: line numbering varies between the hard copy and the electronic version of this Rule. You may need to subtract 1 from each line reference.]

Page 1, line 4 – consider changing "CONSTRUCTED" to "CONSTRUCTION"

Page 1, line 11 – what is a "visible form board"? Is this term well-understood by your regulated public?

Page 1, lines 15-16 – replace "joists or subsills or supporting girders" with "joists, subsills, or supporting girders"

Page 1, lines 24-29 – state requirements unambiguously, using the verb "shall," perhaps as follows:

(B) Where wood parts such as door frames, partition walls, posts, stair carriages, or other wood parts make direct soil contact through concrete or where there is evidence of termite activity or damage, such wood parts shall be cut off above the ground or floor level, the wood shall be removed from the concrete, and the resulting hole shall be filled with concrete or covered with a metal plate after the point of contact has been treated with a termiticide.

Page 1, line 25 – what does "direct soil contact through concrete" mean – does your regulated public understand this term?

Page 1, line 28 – what does "point of contact" mean – does your regulated public understand this term? Is the wood part to be set on the concrete or metal plate? Please clarify.

Page 1, line 31 – are the "steps" the same as "stair carriages" on page 1, line 24? If so, please use one term consistently throughout your rules.

Page 1, line 34 – what does "point of contact" mean – does your regulated public understand this term?

Page 2, line 39 – add a comma after "concrete"

Page 2, line 40 – add "or concrete" after "masonry"

Page 2, lines 42-43 – are "wood step supports" the same as "stair carriages" on page 1, line 24 and "steps" on Page 1, line 31? If so, please use one term consistently throughout your rules.

Page 2, line 41 – replace "pressure treated" with "pressure-treated"

Page 2, line 43 – replace "Parts" with "Subparagraphs"

Page 2, line 47 – add "and treated" after "drilled"

Page 2, line 50 – add a comma after "footing or"

Page 2, line 58 – delete the comma after "evidence"

Page 2, line 60 – add a comma after "footing or"

Page 2, line 63 – replace "top of" with "the"

Page 2, line 64 – delete the comma at the end of this line.

Page 2, line 67 – delete the comma after "foundation" and add a comma after "intervals"

Page 2, line 70 – delete the comma after "foundation"

Page 2, line 71 –add a comma after "slab"

Page 2, lines 71 and 73 – what does "rod treat" mean – does your regulated public understand this term?

Page 2, line 74 – replace "pressure treated" with "pressure-treated"

Page 2, line 73 – Page 3, line 84 – consider listing the items in this rule, as follows:

- (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:
 - (A) all pillars, pilasters, chimneys, pressure-treated wood supports, and step buttresses;
 - (B) inside of foundation walls;
 - (C) outside of foundation walls; and
 - (D) 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.

Page 3, line 85 - delete "on wood" and "type"

Page 3, lune 86 - add "are installed on wood and" before "extend"

Page 3, lines 87 and 89 - delete "type"

Page 3. Line 91 – delete the first comma

Page 3, line 92 – add a comma after "apart"

Page 3, line 95 - add "The requirements set forth in" to the beginning of this line. When would the requirements in Paragraph (b) be applicable to basement or crawl space construction – what does (a)(11) mean?

Page 3, line 96 – add "shall" after "requirements"

Page 3, line 98 – delete the comma after "around"

Page 3, line 100 – delete the comma after "holes"

Page 3, line 107 – revise as follows:

achieve treatment of the soil beneath them; however, expansion and construction joints at the

Page 3, line 110 - add "The requirements set forth in" to the beginning of this line. When would the requirements in Paragraph (a) be applicable to slab-on-ground construction – what does (b)(3) mean?

Page 4, line 112 – state requirements unambiguously, using the verb "shall," perhaps as follows:

(1) Termiticide shall be reapplied if a soil test by the Division reveals that the soil is deficient in the termiticide which was applied to the soil.

Page 4, line 117 – replace "abide by" with "comply with"

Page 4, line 118 – replace "he or his authorized agent" with "he or she or his or her authorized agent"

Page 4, line 118 – add a comma after "agent"

Page 4, line 122 - replace "do" with "shall"

Page 4, line 123 – replace "when" with "if"

Page 4, line 126 – replace "is excused from complying" with "shall not be required to comply"

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

1	02 NCAC 34 .0503 is amended as published in 31:01 NCR 2-4 as follows:		
2			
3	02 NCAC 34 .05	03	SUBTERRANEAN TERMITE CONTROL: BUILDINGS AFTER
4			CONSTRUCTED
5	(a) The following	g standar	ds and requirements apply to the treatment of a building for subterranean termite control after
6	construction if the	e buildin	g has a basement or crawl space:
7	(1)	Access	openings shall be provided to permit inspection of all basement and crawl space areas of a
8		building	and all open porches.
9	(2)	Clean u	p and remove all wood debris and cellulose material, such as wood, paper, and cloth,
10		contacti	ng soil in all crawl space areas. This excludes shavings or other cellulose material too small to
11		be raked	with the tines of an ordinary garden rake. Remove all visible stumps from all crawl space
12		areas. F	Remove all visible form boards in contact with soil.
13	(3)	Remove	all earth which is within 12 inches of the bottom edges of floor joists or within eight inches of
14		the bott	om edges of subsills or supporting girders, but not below footings of foundation walls. If
15		foundat	on footings are less than 12 inches below the bottom edges of joists or subsills or supporting
16		girders,	a bank of soil 12 inches to 18 inches wide shall be left adjacent to footings for the purpose of
17		support.	Clearance shall be adequate to provide passage of a person to all crawl space areas of a
18		building	,.
19	(4)	All visil	ble termite tubes or tunnels on pillars, pilasters, foundation walls, chimneys, step buttresses,
20		sills, pip	bes, and other structures below the sill line shall be removed.
21	(5)	Elimina	te all wooden parts making contact with the building and soil, either outside or inside, as
22		follows	
23		(A)	No wood of any access opening shall be in contact with the soil.
24		(B)	Where wood parts such as door frames, partition walls, posts, stair carriages, or other wood
25			parts can be reasonably ascertained to be making direct soil contact through concrete or
26			where there is evidence of termite activity or damage they shall be cut off above the ground
27			or floor level and the wood removed from the concrete; and the hole shall be filled with
28			concrete or covered with a metal plate, after the point of contact has been treated with a
29			termiticide.
30		(C)	Where wood parts such as vertical wood supports or other wood parts under a building or
31			steps outside a building are not resting on solid masonry or concrete bases extending at least
32			two inches above the soil surface or are in direct soil contact and such supports or steps are
33			not removed, the supports and steps shall be cut off and set on a solid masonry or concrete
34			footing extending at least two inches above the ground after the point of contact has been
35			treated with a termiticide.
36		(D)	When wood skirting and lattice work are suspended, there shall be at least a two-inch
37			clearance between the top of the soil and the bottom edges of the wood skirting or lattice

38		work. If the two-inch clearance is not acceptable to the property owner, it may be closed
39		with solid masonry or concrete but a minimum clearance of one-fourth of one inch shall be
40		provided between the masonry and wood.
41		(E) Where houses or decks are built on pressure treated wood pilings, pillars, or all-weather
42		wood foundations, such pilings, pillars, and wood foundation members, including wood step
43		supports, are not subject to Parts (a)(5)(A), (B), or (C) of this Rule.
44	(6)	Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids
45	. ,	in multiple masonry foundation and bearing walls and all voids created by their placement at and a
46		minimum distance of four feet in all directions from such evidence. Porch foundation walls shall be
47		drilled to a distance of three feet from the main foundation wall and the point of contact with any
48		wooden members. Drill as follows:
49		(A) The distance between drill holes shall not exceed 16 lineal inches and holes shall be no more
50		than 16 inches above the footing or for footings deeper than 16 inches, immediately above
51		the lowest soil level.
52		(B) Test drill the main foundation wall behind any porch or slab area to determine if the porch or
53		slab is supported by a wall whose placement creates a void between itself and the main
54		foundation wall. If test reveals that a void exists, drill and treat all voids therein as specified
55		in this Rule.
56	(7)	Where evidence of either past or present subterranean termite infestation exists, drill and treat all voids
57		in all multiple masonry pillars, pilasters, chimneys, and step buttresses associated or in contact with
58		such evidence, and any void created by their placement. Drill as follows:
59		(A) The distance between drill holes shall not exceed 16 lineal inches and shall be no more than
60		16 inches above the footing or for footings deeper than 16 inches, immediately above the
61		lowest soil level.
62		(B) Drilling is not required if solid concrete masonry footings of pillars, pilasters, chimneys, or
63		step buttresses extend eight inches or more above top of soil surface.
64	(8)	Where concrete slabs over dirt-filled areas are at the level of, above the level of, or in contact with,
65		wood foundation members, treat dirt-filled areas with a termiticide as follows:
66		(A) Drill vertically three-eighths of one inch or larger holes in the slab, no more than six inches
67		from the building foundation, at no more than 12-inch intervals and treat soil below slab from
68		the bottom of the slab to the top of the footing; or
69		(B) Drill horizontally three-eighths of one inch or larger holes in the foundation wall of the
70		concrete slab, no more than six inches from the building foundation, every 16 vertical inches
71		starting immediately below the bottom of the slab and rod treat all soil adjacent to building
72		foundation from the bottom of the slab to the lowest outside grade.
73	(9)	Trench or trench and rod treat soil to establish a continuous termiticide barrier in the soil adjacent to,
74		but not more than six inches from, all pillars, pilasters, chimneys, pressure treated wood supports, and

75 step buttresses; inside of foundation walls; outside of foundation walls; the outside of foundation walls 76 of concrete slabs over dirt-filled areas, and the entire perimeter of a slab foundation wall from the top 77 of the grade to the top of the footing or to a minimum depth of 30 inches, whichever is less. Where 78 footings are exposed, treatment shall be performed adjacent to the footing but not below the bottom of 79 the footing. The trench shall be no less than six inches in depth or to the bottom of the footing, 80 whichever is less. Where outside concrete slabs adjacent to the foundation prevent trenching of soil, 81 drill three-eighths of one inch or larger holes, not more than 12 inches apart and within six inches of 82 the foundation wall, through slabs or through adjoining foundation wall, and rod treat soil below slabs 83 as indicated above to establish a continuous termiticide barrier at all known points of entry. The soil 84 immediately around pipes and other utility conduits making contact with the structure shall be treated. 85 (10)Where stucco on wood or similar type materials, including extruded or expanded rigid foam insulation 86 or similar materials, extend to or below grade, trench soil to a depth below and under the edge of the 87 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 88 89 making direct contact with the stucco or similar type materials. Where outside slabs on grade adjacent 90 to foundation prevent trenching of soil, drill three-eighths of one inch or larger holes through slabs 91 within six inches of the foundation wall, or through adjoining foundation wall, not more than 12 92 inches apart and rod treat soil below slabs. Where drain tile, french drains, or other foundation 93 drainage systems present a hazard of contamination outside the treatment zone, treatment shall be 94 performed in a manner that will not introduce termiticide into the drainage system. 95 (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:

- 98 (1) Treat soil to establish a continuous termiticide barrier in, under, and around, all traps and openings in
 99 the slab.
- 100 (2)Drill vertically three-eighths inch or larger holes, at all visible or known expansion and construction 101 joints, cracks, and crevices in slab and around all utility conduits in the slab at no more than 12-inch 102 intervals and rod treat soil below slab to establish a continuous termiticide barrier from the bottom of 103 the slab to a depth of 30 inches or to the top of the footing, whichever is less, at all known points of 104 entry. Where wooden structural members are in contact with concrete or masonry floors which have 105 joints or cracks beneath the wooden structural members, including wall plates in utility or storage 106 rooms adjoining the main building, the concrete or masonry shall be drilled and treated in order to 107 achieve treatment of the soil beneath them. As an exception, expansion and construction joints at the 108 perimeter of the exterior wall may be rod treated by drilling through the foundation wall at no more 109 than 12-inch intervals directly below the bottom of the slab.
- 110 (3) Paragraph (a) of this Rule shall also be followed, where applicable.
- 111 (c) Reapplication of Pesticide(s) to a Structure Previously Treated for Subterranean Termite Control:

112	(1)	A reapplication of termiticide is required if soil test by the Division reveals that the soil is deficient in		
113	(-)	the termiticide which was applied to the soil.		
114	(2)	Any reapplication of pesticides under this Rule shall be in accordance with the label of the pesticide		
115	(-)	used.		
116	(d) A licensee	may enter into a written agreement for the control or prevention of subterranean termites in a building		
117		constructed without having to abide by Paragraphs (a) and (b) of this Rule provided that:		
118	(1)	The licensee has written proof that he or his authorized agent treated the entire building for		
119	(1)	subterranean termites at the time of its construction as required in 02 NCAC 34 .0505 or 02 NCAC 34		
120		.0506 (or comparable rules in effect at the time of treatment); and		
120	(2)	A written agreement is issued in compliance with 02 NCAC 34 .0605.		
121		(a)(3), $(a)(6)$ through $(a)(11)$ and (b) of this Rule do not apply to subterranean termite treatment		
122		g termite bait(s) labeled for protection of the entire structure when the licensee provides a warranty for the		
123	-	rranean termites on the entire structure.		
124		e uses a termiticide that has been approved by the Committee pursuant to 02 NCAC 34 .0502(a)(2)(B) and		
125				
120	· · · · · · · · · · · · · · · · · · ·			
127		(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.		
129				
130	TT , X ,			
131	History Note:	Authority G.S. 106-65.29;		
132		Eff. July 1, 1976;		
133		Readopted Eff. November 22, 1977;		
134		Amended Eff. August 1, 1980;		
135		Temporary Repeal Eff. August 24, 1987 for a period of 30 days to expire on September 22, 1987;		
136		Temporary Repeal Expired Eff. September 22, 1987;		
137		Amended Eff. January 1, 1989;		
138		Temporary Amendment Eff. January 10, 1997;		
139		Temporary Amendment Expired Eff. October 31, 1997;		
140		Amended Eff. <u>December 1, 2016;</u> July 1, 2010; August 1, 2002; July 1, 1998.		
141				

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0505

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

<u>NOTE WELL:</u> This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Page 1, lines 4-5 – move "only" to after "performed"

Page 1, line 8 – add "termiticide" before "barrier"

Page 1, lines 8 and 19 – does "rodding" refer to the same thing as "rod treat"? If so, replace "rodding" with "rod treating"

Page 1, line 8 – add "the" before "inside"

Page 1, line 12 – replace "Trench" with "The trench"

Page 1, line 17 – delete the comma

Page 1, line 18 – add "termiticide" before "barrier"

Page 1, line 22 – replace "Trench" with "The trench"

Page 1, line 27 – replace "Treatment" with "The treatment"

Page 1, line 28 – delete the comma

Page 1, line 30 - add "and" before "sun" and delete ", etc"

Page 1, line 36 – delete the colon, do not capitalize "except," delete the semicolon, and add "or her" after "his"

Page 2, lines 38-43 – consider revising as follows:

writing on the Subterranean Termite Sub-Slab Release Form provided by the Division. This form shall contain;

- (A) the name of the builder;
- (B) the address of property;
- (C) an identification of the slab areas not treated
- (D) the name and address of the structural pest control company; and
- (E) 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.

Page 2, lines 44-45 – replace "All parts of" with "The requirements set forth in." Is Paragraph (a) or (b) the intended reference? When would the requirements in Paragraph (a) or (b) be applicable to slab-on-ground construction – what does (c) mean?

Page 2, lines 49 and 52 - replace "when" with "if"

Page 2, line 55 – add "or her" after "his"

Page 2, line 56 – add a comma after "box" and delete "or"

Page 2, line 57 – add a comma after "door" and delete ", at a minimum,"

Page 2, line 61 – replace "Name" with "The name" and add a comma after "address"

Page 2, line 62 - replace "Date" with "The date"

Page 2, line 64 – replace "is excused from complying" with "shall not be required to comply"

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

02 NCAC 34 .0505 is amended as published in 31:01 NCR 4-5 as follows:

3 02 NCAC 34 .0505 SUBTERRANEAN TERMITE PREVENTION/RES BLDGS UNDER CONST

4 (a) All treatments performed pursuant to this Rule shall be performed at the label recommended rate and concentration5 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:

- 8 (1)Establish a vertical barrier in the soil by trenching or trenching and rodding along inside of the main 9 foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and 10 piers; and both sides of partition or inner walls with a termiticide from the top of the grade to the top 11 of the footing or to a minimum depth of 30 inches, whichever is less. Where footings are exposed, 12 treatment shall be performed adjacent to the footing but not below the bottom of the footing. Trench 13 shall be no less than six inches in depth or to the bottom of the footing, whichever is less. Where drain 14 tile, french drains, or other foundation drainage systems present a hazard of contamination outside the 15 treatment zone, treatment shall be performed in a manner that will not introduce termiticide into the 16 drainage system.
- 17 (2) After a building or structure has been completed and the excavation filled and leveled, so that the final 18 grade has been reached along the outside of the main foundation wall, establish a vertical barrier in the 19 soil by trenching or trenching and rodding adjacent to the outside of the main foundation wall with a 20 termiticide from the top of the grade to the top of the footing or to a minimum depth of 30 inches, 21 whichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing 22 and not below the bottom of the footing. Trench shall be no less than six inches in depth or to the 23 bottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage 24 systems present a hazard of contamination outside the treatment zone, treatment shall be performed in 25 a manner that will not introduce termiticide into the drainage system.
- 26 (3) Establish a horizontal termiticide barrier in the soil within three feet of the main foundation, under
 27 slabs, such as patios, walkways, driveways, terraces, gutters, etc., attached to the building. Treatment
 28 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.
- 32 (5) Establish a vertical termiticide barrier in the soil around all critical areas, such as expansion and 33 construction joints and plumbing and utility conduits, at their point of penetration of the slab or floor 34 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

38		writing on the Subterranean Termite Sub-Slab Release Form provided by the Division, which shall	
39		contain the name of the builder, address of property, identification of the slab areas not treated, name	
40		and address of the structural pest control company and shall be signed by the company representative	
41		and the home buyer. This form may be obtained by writing the North Carolina Department of	
42		Agriculture and Consumer Services, Structural Pest Control Division, 1001 Mail Service Center,	
43		Raleigh, NC 27699-1001 or by calling (919) 733-6100.	
44	(c) Slab-on-Gro	ound Construction. All parts of Paragraph (a) of this Rule shall be followed, as applicable, in treating	
45	slab-on-ground construction.		
46	(d) All treating requirements specified in this Rule shall be completed within 60 days following the completion of the		
47	structure, as described in Subparagraph (b)(2) of this Rule.		
48	(e) Paragraphs (b) and (c) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s)		
49	labeled for protection of the entire structure when the licensee provides a warranty for the control of subterranear		
50	termites on the entire structure.		
51	(f) Paragraphs (b) and (c) of this Rule shall not apply to subterranean termite treatment performed using EPA registered		
52	topically applied wood treatment termiticides labeled for the protection of the entire structure when the licensee applies		
53	the material according to labeled directions and provides a warranty for the control of subterranean termites on the entire		
54	structure.		
55	(g) No later than the date of the completion of any treatment performed under this Rule, the licensee or his employee		
56	shall place a durable sticker/label, no less than three inches square, on the meter base, circuit breaker box or inside		
57	surface of kitchen cabinet door or other readily noticeable location providing, at a minimum, the following information		
58	(1)	The statement: "This structure was treated for the prevention of subterranean termites. A warranty	
59		has been issued to the builder. If you did not receive your copy of this warranty at closing, contact	
60		your builder or the company below for additional warranty information." in boldface type;	
61	(2)	Name, address and telephone number of the company performing the treatment; and	
62	(3)	Date of final treatment.	
63	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		
64	licensee complies with the requirements of that subsection, the licensee is excused from complying with 02 NCAC 34.0505.		
65	For a list of termiticides the Committee has approved under 02 NCAC 34.0502 (a)(2)(B), see		
66	http://www.ncag	r.gov/SPCAP/structural/documents/TTermiticidesApprovedForUseInNorthCarolinapdf.pdf.	
67			
68	History Note:	Authority G.S. 106-65.29;	
69		Eff. July 1, 1976;	
70		Readopted Eff. November 22, 1977;	
71		Amended Eff. August 1, 1980;	
72		Temporary Repeal Eff. August 24, 1987 for a period of 30 days to expire on September 22, 1987;	
73		Temporary Repeal Expired Eff. September 22, 1987;	

74 Amended Eff. <u>December 1, 2016;</u> July 1, 2004; August 1, 2002; April 1, 2001; July 1, 1998; January
75 1, 1991; January 1, 1989.
76

AGENCY: Structural Pest Control Committee

RULE CITATION: 02 NCAC 34 .0506

DEADLINE FOR RECEIPT: Wednesday, November 9, 2016

<u>NOTE WELL:</u> This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Page 1, line 8 – add "termiticide" before "barrier"

Page 1, lines 8 and 19 – does "rodding" refer to the same thing as "rod treat"? If so, replace "rodding" with "rod treating"

Page 1, line 8 – add "the" before "inside"

Page 1, line 13 – replace "Trench" with "The trench"

Page 1, line 17 – delete the comma

Page 1, line 18 – add "termiticide" before "barrier"

Page 1, line 22 – replace "Trench" with "The trench"

Page 1, line 27 – add "and" before "gutters," delete ", etc" and replace "Treatment" with "The treatment"

Page 1, line 35 - replace "when" with "if"

Page 2, line 41 – add a comma after "directions" and replace "would" with "shall"

Page 2, line 43 – replace "is excused from complying" with "shall not be required to comply"

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

1	02 NCAC 34 .0506 is amended as published in 31:01 NCR 5-6 as follows:		
2			
3	02 NCAC 34 .0506	MIN REQUIRE/SUBTERRANEAN TERMITE PREV/COMMERCIAL BLDGS	
4		UNDER CONST	
5	(a) All treatments p	erformed pursuant to this Rule shall be performed at the label recommended rate and concentration	
6	only.		
7	(b) Minimum Treat	tment Requirements:	
8	(1) E	stablish a vertical barrier in the soil by trenching or trenching and rodding along inside of the main	
9	fo	bundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and	
10	pi	iers; and both sides of partition or inner walls with a termiticide from the top of the grade to the	
11	bo	ottom of the footing or a minimum depth of 30 inches, whichever is less. Where footings are	
12	ez	xposed, treatment shall be performed adjacent to the footing but not below the bottom of the footing.	
13	Т	rench shall be no less than six inches in depth or to the bottom of the footing, whichever is less.	
14	W	Where drain tile, french drains, or other foundation drainage systems present a hazard of	
15	co	ontamination outside the treatment zone, treatment shall be performed in a manner that will not	
16	in	troduce termiticide into the drainage system.	
17	(2) A	fter a building or structure has been completed and the excavation filled and leveled, so that the final	
18	gı	rade has been reached along the outside of the main foundation wall, establish a vertical barrier in the	
19	so	bil adjacent to the outside of the main foundation wall by trenching or trenching and rodding with a	
20	te	ermiticide from the top of the grade to the top of the footing or to a minimum depth of 30 inches,	
21	w	hichever is less. Where footings are exposed, treatment shall be performed adjacent to the footing	
22	aı	nd not below the bottom of the footing. Trench shall be no less than six inches in depth or to the	
23	bo	ottom of the footing, whichever is less. Where drain tile, french drains, or other foundation drainage	
24	sy	stems present a hazard of contamination outside the treatment zone, treatment shall be performed in	
25	a	manner that will not introduce termiticide into the drainage system.	
26	(3) E	stablish a horizontal termiticide barrier in the soil within three feet of the main foundation, under	
27	sl	abs, such as patios, walkways, driveways, terraces, gutters, etc. Treatment shall be performed before	
28	sl	ab is poured but after fill material or fill dirt has been spread.	
29	(4) E	stablish a vertical termiticide barrier in the soil around all critical areas, such as expansion and	
30	CO	onstruction joints and plumbing and utility conduits, at their point of penetration of the slab of floor,	
31	OI	r for crawl space construction, at the point of contact with the soil.	
32	(5) If	concrete slabs are poured prior to treatment, treatment of slabs shall be performed as required by 02	
33	Ν	[CAC 34 .0503(a) or (b).	
34	(c) Paragraph (b) of this Rule shall not apply to subterranean termite treatment performed using termite bait(s) labeled		
35	for protection of the entire structure when the licensee provides a warranty for the control of subterranean termites on the		
36	entire structure.		
37	(d) Paragraph (b) of this Rule shall not apply to subterranean termite treatments using EPA registered topically applied		

- 38 wood treatment termiticides labeled for the protection of the entire structure and the licensee applies the material
- 39 according to labeled directions and provides a warranty for the control of subterranean termites on the entire structure.
- 40 When foundation areas contain no wood or cellulose components and the wood treatment termiticide cannot be applied
- 41 according to label directions then applications specified in Paragraph (b) or (c) of this Rule would be required.
- 42 (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
- 43 licensee complies with the requirements of that subsection, the licensee is excused from complying with 02 NCAC 34.0506.
- 44 For a list of termiticides the Committee has approved under 02 NCAC 34.0502 (a)(2)(B), see
- 45 <u>http://www.ncagr.gov/SPCAP/structural/documents/TTermiticidesApprovedForUseInNorthCarolinapdf.pdf.</u>

48	History Note:	Authority G.S. 106-65.29;
49		Eff. January 1, 1991;
50		Amended Eff. <u>December 1, 2016;</u> August 1, 2002; April 1, 2001; July 1, 1998.
51		