

The proposed adoption of 02 NCAC 34 .0904 will be published in the NC Register on **May 2nd, 2022**. The comment period will end on **July 1st, 2022**.

Written comments may be submitted during the open comment period to James W. Burnette, Jr., 1090 Mail Service Center, Raleigh, NC 27699-1090; email james.burnette@ncagr.gov.

Any person may request a public hearing on the proposed rules by submitting a request in writing no later than May 17th, 2022 to James W., Burnette, Jr., Secretary, NC Structural Pest Control Committee, 1090 Mail Service Center, Raleigh NC 27699-1090.

02 NCAC 34 .0904 is proposed for amendment as follows:

CHAPTER 34 - STRUCTURAL PEST CONTROL

SECTION .0900 - DUTIES AND RESPONSIBILITIES OF LICENSEE

02 NCAC 34 .0904 PROHIBITED ACTS

- (a) No reference shall be made by any certified applicator, licensee, business establishment, or business entity in any form of advertising that would indicate approval, endorsement, or recommendation by the Committee or by any agency of the federal government or North Carolina State, county, or city government.
- (b) The use of a structural pest control license(s), certified applicator's identification card(s), registered technician's identification card(s), or licensee identification card(s) for any purpose other than identification is prohibited.
- (c) In solicitation of structural pest control business, no licensee or his or her employees shall claim that inspections or treatments are required, authorized, or endorsed by any agency of the federal government or North Carolina State, county, or city government unless said agency states that an inspection or treatment is required for a specific structure.
- (d) No licensee shall advertise, in any way or manner, as a contractor for structural pest control services, in any phase(s) of work for which he or she does not hold a valid license(s) as provided for under G.S. 106-65.25(a), unless said licensee shall hold a valid certified applicator's identification card or registered technician's identification card, as provided for under G.S. 106-65.31, as an employee of a person who does hold a valid state license(s) covering phases of structural pest control work advertised.
- (e) The impersonation of any North Carolina State, county, or city inspector or any other governmental official is prohibited.
- (f) No licensee, certified applicator or registered technician's identification card holder shall advertise or hold himself or herself out in any manner in connection with the practice of structural pest control as an entomologist, plant pathologist, horticulturist, public health engineer, sanitarian, unless such person shall be qualified in such field(s) by required professional and educational standards for the title used.
- (g) No certified applicator, licensee, or his or her employees shall represent to any property owner or his or her authorized agent or occupant of any structure that any specific pest is infesting ~~said~~ any property, structure, or surrounding areas thereof, unless ~~strongly supporting~~ visible evidence of such infestation exists.
- (h) No certified ~~applicator or licensee~~ applicator, licensee, or their employees shall authorize, direct, assist, or aid in the publication, advertisement, distribution, or circulation of any material by false statement or representation concerning the licensee's structural pest control business or business of the company with which he or she is employed.
- (i) No certified ~~applicator or licensee~~ applicator, licensee, or their employees shall advertise or contract in a company name style contradictory to that shown on the certified applicator's identification card or license certificate; provided, however, when there is a sale of a business or other name change the company may use both names together for a period not to exceed three years from the date of the name change or sale of business.
- (j) No certified applicator shall use any name style on his or her certified applicator's identification card which contains the words "~~exterminating~~", "exterminating," "pest control," or any other words which imply that he or she provides pest control services for a valuable consideration unless he or she is a licensee or a duly authorized agent or employee of a licensee.

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

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

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

(n) A final order imposing civil liability under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)(7 USC 136l(a)) against any licensee, certified applicator, or non-certified applicator, or a criminal conviction, entry of a plea of guilty, or of nolo contendere under Section 14(b) of FIFRA (7 USC 136l(b)), by a licensee, certified applicator, or non-certified applicator shall constitute grounds for the denial, suspension, or revocation of any license or certification issued by the committee.

*History Note: Authority G.S. 106-65.23; 106-65.29;
Eff. July 1, 1976;
Readopted Eff. November 22, 1977;
Amended Eff. January 1, 1991 January 1, 1989; August 20, 1980;
Temporary Amendment Eff. July 10, 1995 for a period of 120 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. August 1, 2002; July 1, 1998; November 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018;
Amended Eff. September 1, 2022.*