

## **02 NCAC 34 .1102      DESIGNATION OF DEVIATIONS**

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

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

(c) The following violations shall be considered primary deviations:

- (1) Wood Destroying Organism control.
  - (A) Property owner or authorized agent not furnished a written agreement signed by licensee or his authorized agent before treatment is started and licensee does not have copy of said agreement. See Rule .0601 and .0605;
  - (B) Active subterranean termites present in any part of the building(s) when the building(s) was treated for subterranean termites using a conventional soil-applied termiticide and the treatment is covered by an agreement. This shall not include active subterranean termites found before the end of the 30 day period starting from the original treatment date. An infestation shall be considered a secondary deviation if no other deviation caused or was a contributing factor to the infestation. See Rule .0101(a)(2) and (3);
  - (C) Active subterranean termites present in any part of the building(s) or on anything in contact with the building(s) when the building(s) was pre-treated for subterranean termites using a conventional soil-applied termiticide and the treatment is covered by an agreement. This shall not include active subterranean termites found before the end of the 30 day period starting from the final treatment date. An infestation shall be considered a secondary deviation if no other deviation caused or was a contributing factor to the infestation. See Rule .0101(a)(2) and (3);
  - (D) Active subterranean termites present in any part of the building(s) or on anything in contact with the building(s) when the building(s) was treated using termite baits labeled for the protection of the entire structure and is covered by an agreement. This shall not include active subterranean termites found before the end of the one-year period starting from the original treatment date (the date the bait was installed). An infestation shall be considered a secondary deviation if no other deviation caused or was a contributing factor to the infestation. See Rule .0101(a)(2) and (3);
  - (E) The building provides no access opening to permit inspection of the basement or crawl space area, and the licensee has not furnished the property owner a waiver of this condition. See Rule .0503(a)(6), .0503(b)(3), and .0603(a).
  - (F) Multiple masonry foundation or bearing wall not drilled and property owner not furnished waiver of this condition. See Rule .0503(a)(6), .0503(b)(3) and .0603(a); and
  - (G) Concrete slab over dirt-filled area not drilled (through slab or through foundation wall of slab) and property owner not furnished waiver of this condition. See Rule .0503(a)(8), .0503 (b)(3) and .0603(a).
- (2) Household Pest Control. Covered bait station used for acutely toxic rodenticidal bait not locked and marked as required by Rule .0701(b).
- (3) Fumigation.
  - (A) Warning signs not installed as required by Rule .0801(d) and (e), and .0810(b), and .0812(d);
  - (B) Guards not posted as required by Rule .0810(c)(1) through (5).
- (4) Applicable To All Inspection Types.
  - (A) Any violation of Rule .0401 Public Safety: Storage and Handling of containers;
  - (B) Pesticide container not labeled. See Rule .0402(a) and (b);
  - (C) Failure to follow directions on pesticide label. See Rule .0101(b)(1) and (2); .0405(a) and (b); and
  - (D) All secondary deviations that the licensee fails to correct before the first reinspection. See Rule .1103(b).

(d) All other violations of the rules in this Chapter or violations of the Structural Pest Control Act (Article 4C, Chapter 106, North Carolina General Statutes) shall be considered secondary deviations.

*History Note:* Authority G.S. 106-65.29;  
Eff. July 1, 1976;  
Readopted Eff. November 22, 1977;  
Amended Eff. January 1, 1991; August 1, 1980;  
Paragraphs (c) and (d) were recodified from Rule .1103(d) and (e) effective February 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018.