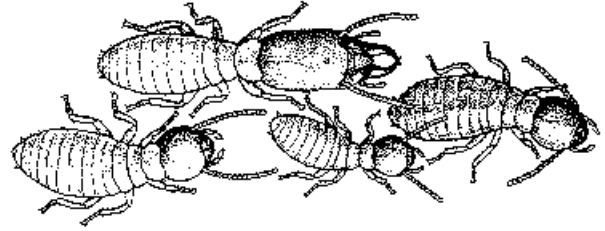


Chapter 8



Understanding the Termiticide Label

University of Nebraska Cooperative Extension recommends that you acquire a copy of the product label for any termiticide a business plans to use to treat your home. You should become familiar with how the product should be used. Knowing and understanding the information contained in termiticide labels will help during the termite control decision making process. Termiticide labels, like all pesticide labels, can be very complicated and sometimes difficult to understand.

Termiticide Use

The following statement can be found on each soil applied termiticide label: “For use by individuals/firms licensed or registered by the state to apply termiticide products. States may have more restrictive requirements regarding qualifications of persons using this product. Consult the structural pest control regulatory agency of your state prior to use of this product.” This statement means that the manufacturer intends that this product only be used by certified pesticide applicators with training and experience in structural pest control.

Precautions

All soil-applied termiticide labels contain consistent precautionary statements that are designed to protect residents, bystanders, and pets. When treating adjacent to an existing structure, the applicator is required to do several things. First, before the termiticides are applied, he/she must check for cracks and holes in the foundation to prevent leaks. Next, during the termiticide application, he/she is required to advise residents to remove pets and occupants if any leaks appear. Then, after the application is complete, he/she needs to check for leaks and clean up any spills or leaks that are found. Finally, if any leaks are found, he/she must prevent people and pets from entering the treated structure until clean up is completed.

Use Directions

The product **Directions for Use** contains suggestions for what the pesticide applicator “should” do and also contains the legal requirements for what the pesticide applicator “must” do. Some examples are listed below and discussed briefly.

Efficacy. Minimum application concentrations and volumes are defined on termiticide labels. The applicator is NOT allowed to use less than the label recommended preconstruction treatment concentration. Typically two application rates are listed on the label. The standard minimum rate and a higher rate for use where severe termite infestations occur. The higher rates may also be used in combination with half the volume when soils will not accept the volume required at the standard rate. In Nebraska, all termiticides MUST be applied at or above the minimum concentration stated on the label for preconstruction treatments.

Saturated or frozen soil. Termiticides must NEVER be placed into soil that is water saturated or frozen OR while precipitation is occurring. This is because the termiticide won't disperse properly under these conditions.

Wells or cisterns. Applicators must be very careful around wells or cisterns. All precautions must be taken to avoid contaminating wells or cisterns. If the structure has a well or cistern inside, the applicator is required to remove any soil that is to be treated, apply the termiticide, and then replace the treated soil. If the structure is adjacent to a well, cistern or other body of water, then all precautions must be taken to limit contamination risks. If possible, all pipes coming from the well into the structure should be exposed before the termiticide application begins. The treated backfill technique is to be used whenever possible.

Plugging of holes. All holes made during the termiticide treatment must be plugged with non-cellulose plugs or covered by a material that cannot be penetrated by the termiticide such as concrete patch.

Construction workers. Before making a preconstruction application, the termiticide applicator is required to notify the contractor of the intended application sites AND advise workers to leave the area until the termiticide has absorbed into the soil.

Preconstruction treatment of foundations. During preconstruction foundation applications, if the foundation is deeper than 4 feet, the termiticide can be applied as backfill is replaced, OR application can be done using the trench and rod technique, as for postconstruction applications.

Postconstruction treatment of foundations. All postconstruction foundation applications of termiticide must be done using the trench and rod technique, to the top of footing, OR a minimum of 4 feet.

Postconstruction treatment of crawl spaces. The treatment of crawl spaces depends on whether they are accessible or inaccessible. Accessible crawl spaces are treated the same as foundations. Inaccessible crawl spaces are treated the same as with accessible crawl spaces if possible, OR a horizontal barrier can be applied to the soil surface. It may be necessary to drill through the foundation wall or through the floor above to accomplish the soil surface treatment.

Treatment of Voids. The most common example of a void is the hollow block empty space that is created when the foundation wall is constructed. All voids in hollow block must be drilled into and treated. The termiticide applicator is required to clean up all leaks prior to leaving. Voids insulated with rigid foam are NOT to be treated because the termiticide will not disperse into the space properly.

Foam treatments. Instructions for use of foaming agents are also included on the label. The proper dosage, dilution rates, and expansion ratios are given. Knowing this information, the termiticide applicator can make better, more effective foam applications.

Retreatments. Retreatments for both pre- and postconstruction termiticide applications can only be done if there is clear evidence of reinfestation or if the soil barrier has been disrupted and/or breakdown of the termiticide has occurred.

The label is the law. If you observe a termite treatment that is done contrary to the label directions, contact the Nebraska Department of Agriculture (402) 471-2394 to report the incident. It is against the law to apply pesticides contrary to the label.

Regulatory Perspective

The Nebraska Department of Agriculture (NDA) is charged by the Nebraska Pesticide Act with administration of pesticide regulations in the state. The Act allows the NDA to certify and license pesticide applicators, register pesticides for sale and use, and enforce application standards by people who use pesticides. The Act does not include language related to home/termite inspections or consumer protection, making it difficult to address these concerns when they relate to improperly applied termiticides.

A structural inspection that fails to identify a termite infestation, or one that incorrectly identifies a nonexistent infestation, is obviously a concern. Unfortunately, there are no laws in Nebraska that specifically deal with structural pest inspections. This is considered an unregulated industry, and the NDA is unable to get involved in disputes of erroneous pest inspection reports unless the situation involves an improperly applied pesticide.

The Federal and State pesticide laws derive their enforcement authority from what a pesticide label says. Both laws mandate that users of pesticides follow all label requirements, and that any deviation from those directions likely constitutes a violation of the law. For example, if a termiticide label indicates **what** a complete house treatment is, the customer contracts for a complete treatment. However, if the applicator of the termiticide fails to apply the termiticide following the directions for a complete treatment, the NDA has the authority to take enforcement action against the applicator for failure to follow all label directions. The NDA does not have the authority to determine issues related to a breach of contract (such as in the case where different prices are charged or the applicator fails to perform some function unrelated to the actual application of the termiticide).

What is the minimum concentration allowed?

All termiticide labels have concentrations listed on the label. The Nebraska Pesticide Act also stipulates that termiticides must be applied at least at the minimum concentration listed for preconstruction treatments, even for postconstruction applications. The consequences of applying a weaker concentration than the label minimum is that the structure may not be protected from foraging termites for very long, creating the need for retreatments more frequently than may be necessary.

What is considered a complete treatment?

The question of what is or is not considered a *complete* treatment is frequently asked. As of 2005, the NDA still enforces this concept based on what a termiticide label indicates is *complete*. If a termiticide label fails to specify what a complete treatment is, the NDA's position is that it includes, at a minimum, application of the termiticide in such a manner as to create a continuous barrier between the structure and the termites, including treatment of the structure's foundation and all other places where termites can enter the structure, such as crawl spaces, hollow steps, basement floors, and wall voids. The NDA is in the process of developing a written interpretation of termiticide terminology that will then be used as a technical guidance document for questions of this nature.

Termite bait systems also have federally approved and state registered labels that applicators must follow. To install and/or monitor bait stations in a manner contrary to the label is considered a violation of the Act.

Are the exclusive use of baits considered a "complete" treatment?

The NDA refers to the label for the bait system for this answer. If the bait system indicates that it can adequately be installed as a complete treatment, the applicator/installer of that system must comply with the product's warranty (that the product will protect the structure). However, most bait system labels are including disclaimers that the bait system should be used in concert with other conventionally applied termiticides to be considered a complete treatment.

What about retreatments?

Conventional liquid termiticides are required by Federal law to indicate that complete retreatment of the structure can only be done under certain circumstances. Unfortunately, these requirements fall short of fully explaining the conditions under which a complete treatment can again be made. In Nebraska, the NDA has determined that complete retreatments can be made if clear evidence of termiticide failure is observed in a majority of the structure, and that the termiticide used for retreatment is of a different chemistry than the one that failed, unless the retreatment is part of a product warranty requiring retreatment with the same product. Again, this concern will be addressed in the technical interpretations being developed by the NDA (mentioned in the complete treatment section).

Mandatory Statements made on the Termiticide Labels

The NDA is able to enforce (and frequently does enforce) “mandatory” label language. Words such as “must”, “shall”, and “always” are mandatory in that they direct the user of the product to do or not to do something. The following are some examples of “mandatory” label language:

1. The dilute insecticidal emulsion **must** be adequately dispersed in the soil to establish a barrier between the wood and the termites in the soil.
2. The service technician **must** be familiar with current termite practices such as trenching, rodding, subslab inject, etc. These techniques **must** be correctly employed to control infestations by subterranean termites.
3. **Do not** apply at a lower dosage and/or concentration than specified for applications prior to the installation of the finished grade.
4. The applicator **must** trench and rod into the trench or trench along the foundation walls and around pillars and other foundation elements.
5. Trenches **must** be a minimum of 6 inches deep or to top of footing.
6. All holes in commonly occupied areas into which _____ has been applied **must** be plugged with a noncellulose material or covered with an impermeable cover.
7. Create a horizontal barrier **wherever** treated soil will be covered by a slab.
8. Vertical barriers **must** be established in areas such as around the base of foundations, plumbing, utility entrances, back-filled soil against foundation walls and other critical areas.
9. Provide thorough and continuous coverage of the area being treated.
10. Special care **must** be taken to distribute the treatment evenly.
11. Retreatment for subterranean termites **can only** be performed if there is clear evidence of reinfestation or disruption of the barrier due to construction, excavation, or landscaping and/or evidence of the breakdown of the termiticide barrier in the soil.

Optional Statements made on Termiticide Labels

The NDA is not able to enforce “optional” label language, such as “may”, “should”, or “recommend”. This language is considered more of a guidance to the user and is often not enforceable unless the action is clearly an industry standard practice or obviously needed to perform a correct treatment. The following are some examples of “optional” label language:

1. Establish a treated barrier (horizontal and/or vertical **as needed**).
2. _____ **should** be applied in a manner to provide a continuous chemical barrier to prevent termites from attacking the wood to be protected.
3. _____ **should** only be applied by licensed technicians familiar with trenching, rodding, short rodding, subslab injection, etc.
4. Horizontal barriers **may** be established in areas intended for covering such as floors, porches, etc.
5. Vertical barriers **may/should** be established around the base of foundations, plumbing, back-filled soil, etc.
6. Emulsion **should** be mixed with the soil as it is being replaced in the trench.
7. Application **may** be made by trenching and rodding into the trench or trenching.
8. When rodding from grade or from the bottom of a shallow trench, rod holes **should** be spaced in a manner that will allow for application of a continuous chemical barrier.
9. Treatments **should** include both sides of foundation and around all piers and pipes.
10. When rodding, rod holes **should** be spaced in a manner that will allow for a continuous chemical treated zone, not to exceed 12 inches.
11. Treatment **may** also be required beneath the slab along both sides of interior footing-supported walls.
12. To apply a treatment under the slab...it **may** be necessary to drill through the slab or exterior foundation.
13. **May** be treated to provide a continuous chemical treated zone in the voids at the footing.