

02 NCAC 09L .0504 is amended with changes as published in 29:16 NCR 1930-1931 as follows:

02 NCAC 09L .0504 DEFINITIONS

The following definitions apply to ~~2 NCAC 9L .0505 — Classifications, 2 NCAC 9L .0506 — Governmental Workers, and 2 NCAC 9L .0507 — Categories of Consultants: Rules .0505, .0506, and .0507 of this Section:~~

(1) "Agricultural pest control":

(a) Plant. Includes pesticide applicators using or supervising the use of pesticides in production of agricultural crops, including without limiting the foregoing, tobacco, peanuts, cotton, feed grains, soybeans and forage; vegetables; small fruits; tree fruits and nuts; as well as on grasslands and non-crop agricultural lands; and

(b) Animal. Includes pesticide applicators using or supervising the use of pesticides on animals, including without limiting the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places ~~on or in which~~ where animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide ~~applicators~~ applicators, or engaged in large-scale use of pesticides are included in this category.

(2) "Forest pest control" includes pesticide applicators using or supervising the use of pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) "Ornamental and turf pest control" includes pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.

(4) "Seed treatment" includes pesticide applicators using or supervising the use of pesticides on seeds.

(5) "Aquatic pest control" includes pesticide applicators using or supervising the use of any pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in Category Item (7) of this Rule.

(6) "Right-of-way pest control" includes pesticide applicators using or supervising the use of pesticides in the maintenance of public roads, electric powerlines, pipelines, railway ~~rights-of-way~~ rights-of-way, or other similar areas.

(7) "Public health pest control" includes primarily, but is not limited to, state, federal, or other governmental employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance.

(8) "Regulatory pest control" includes state, federal, or other governmental employees who use or supervise the use of pesticides in the control of regulated pests.

(9) "Demonstration and research pest control" includes the following:

(a) ~~individuals~~ persons who demonstrate to the public the ~~proper~~ use and techniques of application of pesticides or supervise such ~~demonstration; and demonstration.~~ This includes extension specialists and county agents, commercial representatives demonstrating pesticide products, and those persons demonstrating methods used in public programs; and

(b) persons ~~who who, on conducting field research with pesticides,~~ use or supervise the use of pesticides. ~~pesticides while conducting field research with pesticides. Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group This~~ includes state, federal, ~~commercial commercial,~~ and other persons conducting field research on or utilizing pesticides.

(10) "Wood treatment" includes pesticide applicators using or supervising the use of restricted use pesticides in wood preservation and wood products treatment.

(11) "Soil and growing media fumigation pest control" includes individuals using or supervising the use of any fumigant pesticide injected or applied to soils or growing media. This category excludes fumigation of raw agricultural commodities and all structural fumigation such as:

(a) boxcars;

(b) warehouses;

(c) tractor trailers; and

(d) grain bins.

(12) "Growing media" [means] includes a substance or substances through which roots [grow,] grow and extract water and nutrients.

History Note: Authority G.S. 143-452(d); 143-460(29); ~~143-460(33);~~ 40 C.F.R 171.3;

Eff. February 1, 1976;

Amended Eff. June 1, 2016; ~~July 1, 2015~~; November 1, 1984; August 1, 1982; October 27, 1979.

02 NCAC 09L .0505 is amended with changes as published in 29:16 NCR 1931-1932 as follows:

02 NCAC 09L .0505 CLASSIFICATIONS

The following classifications and subclassifications are hereby established shall apply to for the licensing of pesticide applicators:

(1) pesticide applicators and public operators utilizing ground equipment:

(a) agricultural pest control:

(i) ~~plant;~~ plant; and

(ii) animal;

(b) forest pest control;

(c) ornamental and turf pest control;

(d) aquatic pest control;

(e) right-of-way pest control;

(f) public health pest control;

(g) regulatory pest control;

(h) demonstration and research pest control:

(i) agricultural pest control:

(A) ~~plant;~~ plant; and

(B) animal;

(ii) forest pest control;

(iii) ornamental and turf pest control;

(iv) aquatic pest control;

(v) right-of-way pest control;

(vi) public health pest control;

(vii) regulatory pest control;

(viii) seed treatment;

(ix) wood treatment; and

(x) soil and growing media fumigation pest control;

(i) seed treatment;

(j) wood treatment; and

(k) soil and growing media fumigation pest control;

(2) pesticide applicators and public operators utilizing aerial equipment:

(a) agricultural pest control: plant;

(b) forest pest control;

(c) ornamental and turf pest control;

(d) aquatic pest control;

(e) right-of-way pest control;

(f) public health pest control;

- (g) regulatory pest control; **and**
- (h) demonstration and research pest control:
 - (i) agricultural pest control: plant;
 - (ii) forest pest control;
 - (iii) ornamental and turf pest control;
 - (iv) aquatic pest control;
 - (v) right-of-way pest control;
 - (vi) public health pest control; **and**
 - (vii) regulatory pest control.

*History Note: Authority G.S. 143-452(d); ~~143-460(29)~~; **143-460(29)**; ~~143-460~~(33);
Eff. February 1, 1976;
Amended Eff. June 1, 2016; November 1, 1984; August 26, 1976.*

02 NCAC 09L .0507 is amended with changes as published in 29:16 NCR 1932 as follows:

02 NCAC 09L .0507 CATEGORIES OF CONSULTANTS

Each person acting as a pest control consultant as defined in the North Carolina Pesticide Law of 1971 G.S. 143-460(27) ~~is required to~~ shall be licensed. The categories requiring a license may include ~~but are not limited to~~ the following:

- (1) agricultural pest control:
 - (a) ~~plant,~~ plant; and
 - (b) animal;
- (2) forest pest control;
- (3) ornamental and turf pest control;
- (4) aquatic pest control;
- (5) right-of-way pest control;
- (6) public health pest control;
- (7) regulatory pest control;
- (8) seed treatment;
- (9) wood ~~treatment.~~ treatment; and
- (10) soil and growing media fumigation pest control.

History Note: Authority G.S. 143-455; 143-460(27);

Eff. February 1, 1976;

Amended Eff. June 1, 2016; November 1, 1984; October 28, 1978; January 27, 1978.

02 NCAC 09L .0522 is amended with changes as published in 29:16 NCR 1932 as follows:

02 NCAC 09L .0522 RECERTIFICATION OPTIONS

(a) ~~Completion~~ Commercial pesticide applicators, public operators, and pest control consultants may be recertified by completion of approved ~~Continuing Certification Credit Requirements~~ continuing certification credit requirements in the pest control category in which the individual is certified and desires to retain certification. A ~~Continuing Certification Credit~~ "continuing certification credit" is defined as one hour of approved ~~Continuing Certification Training~~ continuing certification training. ~~Continuing Certification Training~~ Continuing certification training ~~must shall~~ be approved by the Board based upon the US Environmental Protection Agency "Standards for certification of commercial applicators," as contained in 40 CFR 171.4, and such training may consist of grower meetings, seminars, short courses, or other presentations taught by extension pesticide personnel, or other privately or publicly sponsored training organizations approved by the Board. ~~Continuing Certification Credit Requirements~~ Continuing certification requirements for each pest control category are as follows:

- | | | |
|------|----------------------------|------------------------------|
| (1) | aquatic | 6 credits per 5-year period |
| (2) | public health | 6 credits per 5-year period |
| (3) | forest | 6 credits per 5-year period |
| (4) | right-of-way | 4 credits per 5-year period |
| (5) | regulatory | 6 credits per 5-year period |
| (6) | ag pest-animal | 6 credits per 5-year period |
| (7) | ornamental and turf | 10 credits per 5-year period |
| (8) | seed treatment | 3 credits per 5-year period |
| (9) | ag pest-plant | 10 credits per 5-year period |
| (10) | demonstration and research | 10 credits per 5-year period |

The ~~Continuing Certification Credits~~ continuing certification credits required for demonstration and research may consist of any combination of credits divided between training in the primary categories (1) through (9) set forth in (a)(1) through (a)(9) of this Rule and training in demonstration and research.

- | | | |
|------|--------|-----------------------------|
| (11) | aerial | 4 credits per 2-year period |
|------|--------|-----------------------------|

The Continuing Certification Credits required for aerial applicators shall ~~must~~ include one credit obtained through training in aerial methods.

- | | | |
|------|--|------------------------------------|
| (12) | wood treatment | 4 credits per 5-year period |
| (13) | <u>soil and growing media fumigation</u> | <u>3 credits per 5-year period</u> |

The Continuing Certification Credits established for each ground application pest control category ~~must shall~~ be obtained in at least two years of the five-year period.

~~(b) Participation in one training session conducted by extension pesticide personnel, or other approved organizations, during the recertification period, and satisfactory passing of a written comprehensive examination administered by the North Carolina Department of Agriculture personnel at the conclusion of training.~~

1 ~~(e)(b) Satisfactory passing of a~~ Commercial pesticide applicators, public operators, and pest control consultants may be
2 recertified by passing a written comprehensive examination administered by North Carolina Department of Agriculture and
3 Consumer Services personnel and based on training materials ~~which that~~ have been approved by the Board.

4
5 *History Note:* Authority G.S. 143-437(1); 143-440(b); 143-453(c)(2); 143-455(d);
6 Eff. September 10, 1980;
7 Amended Eff. June 1, 2016; November 1, 1984.

02 NCAC 09L .1102 is amended with changes as published in 29:16 NCR 1933 as follows:

02 NCAC 09L .1102 DEFINITIONS

(a) Certified applicator - any individual who is certified to use or supervise the use of any restricted use pesticide.

(b) Private pesticide applicator - a person who uses or supervises the use of any restricted use pesticide under the following conditions:

(1) for the purpose of producing any agricultural commodity on property owned or rented ~~by him or his employer, or by the person or the person's employer; or~~

(2) if the pesticide is applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.

(c) Private pesticide applicator certification standards review - a ~~comprehensive~~ training session designed ~~by the North Carolina State University Pesticide Safety Extension Specialist~~ to advance a private pesticide applicator's practical knowledge in areas such ~~as as: the pest problems and pest control practices associated with agricultural operations; proper storage, use, handling, and disposal of pesticides and their containers; labels and labeling information; local environmental situations that must be considered during application to avoid contamination; recognition of poisoning symptoms and procedures to follow in case of a pesticide accident; protective clothing, equipment, and other appropriate worker protection standards; appropriate federal and state pesticide laws and regulations and the applicator's related legal responsibility; current agricultural production related pesticide technology; and sources of advice and guidance necessary for the safe and proper use of each pesticide related to his/her certification. These training sessions will be taught by Cooperative Extension Service pesticide training agents or other individuals approved by the Board.~~

(1) the pest problems and pest control practices associated with agricultural operations;

(2) storage, use, handling, and disposal of pesticides and their containers;

(3) labels and labeling information;

(4) local environmental situations to consider during application to avoid contamination;

(5) recognition of poisoning symptoms and procedures to follow in case of a pesticide accident;

(6) protective clothing, equipment, and other worker protection standards;

(7) federal and state pesticide laws and regulations and the applicator's related legal responsibility;

(8) current agricultural production-related pesticide technology; and

(9) sources of advice and guidance necessary for the safe and proper use of each pesticide related to his or her certification.

These training sessions shall be taught by Cooperative Extension Service pesticide training agents or other individuals approved by the Board on a case-by-case basis, based upon the individual's education, experience, and knowledge of Subparagraph (c)(1) through (9) of this Rule.

(d) Continuing certification credit - one hour of continuing certification training. Continuing certification training ~~must~~ shall be approved by the Board. Such training may be offered during grower meetings, seminars, short courses, or other Board-approved presentations taught by Cooperative Extension Service pesticide training agents, or other privately or publicly sponsored training organizations. Private applicators may also earn continuing certification credits by attending

approved training sessions for which credit has been assigned in the following commercial categories:

- (1) aquatic;
- (2) agricultural pest - animal;
- (3) agricultural pest - plant;
- (4) ~~ornamentals~~ ornamental and turf;
- (5) forest; ~~and~~
- (6) seed ~~treatment~~, treatment; and
- (7) soil and growing media fumigation

~~as defined set forth~~ in 02 NCAC 09L .0505(1)(a) through (1)(~~h~~)-(k).

History Note: Authority G.S. 143-440; G.S. 143-453;

Eff. December 1, 1976;

Amended Eff. June 1, 2016; October 1, 2002; November 1, 1988; July 1, 1987; February 5, 1978;

April 20, 1977.

02 NCAC 09L .1104 is amended with changes as published in 29L16 29:16 NCR 1933 as follows:

02 NCAC 09L .1104 SINGLE PURCHASE EMERGENCY CERTIFICATION PERMIT

(a) For emergency certification of any applicant who has not previously been certified and did not anticipate need for a restricted use pesticide, a 10-day Single Purchase Emergency Certification Permit ~~permit~~ ~~can~~ may be issued by his or her resident county agricultural extension service pesticide coordinator authorizing the purchase and use of one restricted use pesticide for one application to a crop or site. Permits shall not be issued if:

(1) there is sufficient time prior to the needed use for the individual to become certified;

(2) an individual had been previously certified, but let the certification lapse; or

(3) after discussion with the Cooperative Extension Agent, it is determined that a general use pesticide (one available to the general public and not requiring certification to purchase and apply) may be used.

(b) Prior to issuance of the ~~permit~~ permit, the resident county agricultural extension service pesticide coordinator shall:

(1) provide the applicant with a training manual and information relative to obtaining full private pesticide applicator ~~certification~~, certification; and

(2) discuss with the applicant proper use of the restricted use pesticide.

~~(b)(c)~~ If the individual requires further use of restricted use pesticides, he or she ~~must~~ shall complete one of the certification options ~~explained~~ set forth in Rule .1103 of this Section.

~~(c)(d)~~ The agricultural extension service pesticide coordinator shall keep a copy of the permit provided by the North Carolina Department of Agriculture and Consumer Services ~~which that~~ contains the following information:

(1) the name and address of the ~~applicant~~, applicant;

(2) the name and amount of restricted use ~~pesticide~~, pesticide;

(3) the crop or site to be ~~treated~~, treated; and

(4) the date the permit was issued.

Copies of the permits ~~will~~ shall be available for review by the North Carolina Department of Agriculture and Consumer Services. ~~on an as needed basis by the North Carolina Department of Agriculture.~~

~~(d)(e)~~ A Single Purchase Emergency Certification Permit shall not be issued for ~~fumigants~~, fumigation of soil, growing media, or agricultural commodities.

History Note: Authority G.S. 143-440;

Eff. December 1, 1976;

Amended Eff. June 1, 2016; August 26, 1977.

02 NCAC 09L .1108 is amended with changes as published in 29:16 NCR 1934 as follows:

02 NCAC 09L .1108 TERM OF CERTIFICATION; RECERTIFICATION

(a) The term of certification shall be for a period of three years.

(b) In order to be recertified as a private pesticide applicator without a written examination, a person must shall complete two hours of private pesticide applicator certification standards review, plus two continuing certification credit hours, as defined in 02 NCAC 09L .1102(d)-Rule .1102(d) of this Section.

(c) A private pesticide applicator certified in the subclass of soil and growing media fumigation or agricultural commodity fumigation shall earn one hour of continuing certification credit specific to each applicable subclass to retain the subclass certification.

*History Note: Authority G.S. 143-440; G.S. 143-453;
 Eff. July 1, 1987;
 Amended Eff. June 1, 2016; October 1, 2002.*



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

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

April 21, 2016

Chrissy Waggett
Department of Agriculture
Sent via email to Christina.Waggett@ncagr.gov

Re: Extension of the Period of Review for Rules 02 NCAC 09L .0504, .0505, .0507, .0522, .1102, .1104, and .1108.

Dear Ms. Waggett:

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 Pesticide Board to extend the period in order to allow the agency to make technical changes and submit the rewritten rules at a later meeting.

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.

Should you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

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

Rules Division
919/431-3000
fax: 919/431-3104

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

Burgos, Alexander N

Subject: FW: MCAFEE E-MAIL SCAN ALERT!~FW: RRC REQUEST FOR TECHNICAL CHANGES

From: Waggett, Christina

Sent: Thursday, April 14, 2016 10:51 AM

To: Reeder, Amanda J <amanda.reeder@oah.nc.gov>

Subject: RE: MCAFEE E-MAIL SCAN ALERT!~FW: RRC REQUEST FOR TECHNICAL CHANGES

Hey Amanda,

I just spoke with our folks this morning and we would like to request an extended period of review in order to address the technical changes.

Thank you!

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

[NC Department of Agriculture](#); [NC Friends of Agriculture Foundation](#); [Commissioner's Food Safety Forum](#); [NC Ag Development Forum](#)

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Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Pesticide Board

RULE CITATION: 02 NCAC 09L .0504

DEADLINE FOR RECEIPT: Friday, April 8, 2016

NOTE WELL: *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:

Please change the Introductory Statement to "is amended"

From a previous review for the June 2015 RRC meeting, I know that some of the wording in this Rule, including the use of "including but not limited to" is to mirror CFR language. Therefore, please add 40 C.F.R. 171.3 to the History Note.

Please insert page numbers. (See Rule 26 NCAC 02C .0108(1)(h))

Throughout the Items, you say the term defined "includes" rather than "means." Should it be "means" or is "includes" needed to mirror federal law?

In Item (5), line 23, I take it you mean "purposefully" as defined in the dictionary – not unintentional, purposely applied?

In Item (6), line 26, the plural of the term is either "rights-of-way" or "right-of-ways"

In Item (7), line 26, I suggest removing "primarily, but is not limited to," so the sentence reads, "includes state, federal, or other..."

Sub-Item (9)(b) is very cluttered. Have you considered "persons who use or supervise the use of pesticides while conducting field research with those pesticides. This includes extension specialists..." to make it clearer? If you don't want to make that change, why not change "on" on line 36 to "when"?

For the sentence beginning on line 37, please bring this over to the left margin or insert the first sentence in Sub-Item 9(a).

In Item (12), Page 2, line 13, do you mean to state "means" here or, to be consistent elsewhere, should it be "includes"?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

Also on line 13, please remove the underline from [grow]

In the History Note, please change the effective date to May 1, 2016.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

02 NCAC 09L .0504 is proposed for amendment with changes as published in 29:16 NCR 1930-1931 as follows:

02 NCAC 09L .0504 DEFINITIONS

The following definitions apply to ~~2 NCAC 9L .0505 — Classifications, 2 NCAC 9L .0506 — Governmental Workers, and 2 NCAC 9L .0507 — Categories of Consultants: Rules .0505, .0506, and .0507 of this Section:~~

- (1) "Agricultural pest control":
 - (a) Plant. Includes pesticide applicators using or supervising the use of pesticides in production of agricultural crops, including without limiting the foregoing, tobacco, peanuts, cotton, feed grains, soybeans and forage; vegetables; small fruits; tree fruits and nuts; as well as on grasslands and non-crop agricultural lands;
 - (b) Animal. Includes pesticide applicators using or supervising the use of pesticides on animals, including without limiting the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places ~~on or in which~~ where animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide ~~applicators~~ applicators, or engaged in large-scale use of pesticides are included in this category.
- (2) "Forest pest control" includes pesticide applicators using or supervising the use of pesticides in forests, forest nurseries, and forest seed-producing areas.
- (3) "Ornamental and turf pest control" includes pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.
- (4) "Seed treatment" includes pesticide applicators using or supervising the use of pesticides on seeds.
- (5) "Aquatic pest control" includes pesticide applicators using or supervising the use of any pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in Category Item (7) of this Rule.
- (6) "Right-of-way pest control" includes pesticide applicators using or supervising the use of pesticides in the maintenance of public roads, electric powerlines, pipelines, railway ~~rights of way~~ rights-of-ways, or other similar areas.
- (7) "Public health pest control" includes primarily, but is not limited to, state, federal, or other governmental employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance.
- (8) "Regulatory pest control" includes state, federal, or other governmental employees who use or supervise the use of pesticides in the control of regulated pests.
- (9) "Demonstration and research pest control" includes the following:
 - (a) individuals who demonstrate to the public the ~~proper~~ use and techniques of application of pesticides or supervise such demonstration; and
 - (b) persons who, on conducting field research with pesticides, use or supervise the use of pesticides. Included in the first group are such persons as extension specialists and county agents,

commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group includes state, federal, ~~commercial~~ commercial, and other persons conducting field research on or utilizing pesticides.

(10) "Wood treatment" includes pesticide applicators using or supervising the use of restricted use pesticides in wood preservation and wood products treatment.

(11) "Soil and growing media fumigation pest control" includes individuals using or supervising the use of any fumigant pesticide injected or applied to soils or growing media. This category excludes fumigation of raw agricultural commodities and all structural fumigation such as:

(a) boxcars;

(b) warehouses;

(c) tractor trailers; and

(d) grain bins.

(12) "Growing media" means a substance or substances through which roots ~~grow,~~ grow and extract water and nutrients.

History Note: Authority G.S. 143-452(d); 143-460(29); ~~143-460(33);~~

Eff. February 1, 1976;

Amended Eff. July 1, 2015; November 1, 1984; August 1, 1982; October 27, 1979.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Pesticide Board

RULE CITATION: 02 NCAC 09L .0505

DEADLINE FOR RECEIPT: Friday, April 8, 2016

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:

Please change the Introductory Statement to "is amended"

Please insert page numbers. (See Rule 26 NCAC 02C .0108(1)(h))

In Item (1), I take it "ground equipment" on line 5 is understood by your regulated public? Is it governed by G.S. 143-460(11)?

(11) "Equipment" means any type of ground, water or aerial equipment, device, or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household device used to apply any pesticide or any equipment, device or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.

In Sub-Item (1)(a)(i), line 7, please underline "plant;"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

02 NCAC 09L .0505 is proposed for amendment with changes as published in 29:16 NCR 1931-1932 as follows:

02 NCAC 09L .0505 CLASSIFICATIONS

The following classifications and subclassifications are hereby established shall apply to for the licensing of pesticide applicators:

(1) pesticide applicators and public operators utilizing ground equipment:

(a) agricultural pest control:

(i) ~~plant;~~ plant; and

(ii) animal;

(b) forest pest control;

(c) ornamental and turf pest control;

(d) aquatic pest control;

(e) right-of-way pest control;

(f) public health pest control;

(g) regulatory pest control;

(h) demonstration and research pest control:

(i) agricultural pest control:

(A) ~~plant;~~ plant; and

(B) animal;

(ii) forest pest control;

(iii) ornamental and turf pest control;

(iv) aquatic pest control;

(v) right-of-way pest control;

(vi) public health pest control;

(vii) regulatory pest control;

(viii) seed treatment;

(ix) wood treatment; and

(x) soil and growing media fumigation pest control;

(i) seed treatment;

(j) wood treatment; and

(k) soil and growing media fumigation pest control;

(2) pesticide applicators and public operators utilizing aerial equipment:

(a) agricultural pest control: plant;

(b) forest pest control;

(c) ornamental and turf pest control;

(d) aquatic pest control;

(e) right-of-way pest control;

(f) public health pest control;

- (g) regulatory pest control; **and**
- (h) demonstration and research pest control:
 - (i) agricultural pest control: plant;
 - (ii) forest pest control;
 - (iii) ornamental and turf pest control;
 - (iv) aquatic pest control;
 - (v) right-of-way pest control;
 - (vi) public health pest control; **and**
 - (vii) regulatory pest control.

*History Note: Authority G.S. 143-452(d); ~~143-460(29)~~; **143-460(29)**; ~~143-460~~(33);
Eff. February 1, 1976;
Amended Eff. May 1, 2016; November 1, 1984; August 26, 1976.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Pesticide Board

RULE CITATION: 02 NCAC 09L .0507

DEADLINE FOR RECEIPT: Friday, April 8, 2016

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:

Please change the Introductory Statement to "is amended"

In Item (9), line 16, please show the deletion of "treatment." from the original language. Thus, "wood ~~treatment~~. treatment; and" Since this is how you published it, you do not need to treat it as a change – simply show it as published.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

02 NCAC 09L .0507 is proposed for amendment with changes as published in 29:16 NCR 1932 as follows:

02 NCAC 09L .0507 CATEGORIES OF CONSULTANTS

Each person acting as a pest control consultant as defined in ~~the North Carolina Pesticide Law of 1971~~ G.S. 143-460(27) ~~is required to~~ shall be licensed. The categories requiring a license may include ~~but are not limited to~~ the following:

- (1) agricultural pest control:
 - (a) ~~plant,~~ plant; and
 - (b) animal;
- (2) forest pest control;
- (3) ornamental and turf pest control;
- (4) aquatic pest control;
- (5) right-of-way pest control;
- (6) public health pest control;
- (7) regulatory pest control;
- (8) seed treatment;
- (9) wood treatment; and
- (10) soil and growing media fumigation pest control.

History Note: Authority G.S. 143-455; 143-460(27);

Eff. February 1, 1976;

Amended Eff. May 1, 2016; November 1, 1984; October 28, 1978; January 27, 1978.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Pesticide Board

RULE CITATION: 02 NCAC 09L .0522

DEADLINE FOR RECEIPT: Friday, April 8, 2016

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:

Please change the Introductory Statement to "is amended"

Please insert page numbers. (See Rule 26 NCAC 02C .0108(1)(h))

On line 4, please remove the comma after "consultants" Since you did not publish with the term, you do not need to show the removal – simply do it.

On lines 6, 7, 9, and 10, why are the terms "Continuing Certification Credit" "Continuing Certification Training" and "Certification Credit Requirements" capitalized?

On line 7, how does the Board approve this? Is the approval process in another Rule or law?

On line 9, how does the Board approve this? Is the approval process in another Rule or law?

In (a)(6) and (9), where you state "ag-pest" do you mean "agricultural pest" as defined in Rule .0504? If so, why not state that? Or is this how your regulated public refers to the term?

What are you saying in the sentence on lines 21-22? Since each category of licensure is separate, how can one have training on various disciplines and keep the licensure? I am confused since "demonstration and research pest control" is its own subclassification of licensure, but any licensee can use this for their license?

On line 22, please state "primary categories set forth in (a)(1) through (a)(9) of this Rule"

Please fix the spacing on lines 23-24 and 27-30.

Paragraphs (b) and (c) are not complete sentences. I believe you are using the rule name to try to introduce the concepts; however, rule names are not part of the rule. Please write this using complete sentences so that you are stating what you are doing and expecting of your licensees.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

In (b), on line 33, how are these organizations approved? By whom?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

02 NCAC 09L .0522 is proposed for amendment with changes as published in 29:16 NCR 1932 as follows:

02 NCAC 09L .0522 RECERTIFICATION OPTIONS

(a) ~~Completion~~ Commercial pesticide applicators, public operators, and pest control consultants, may be recertified by completion of approved Continuing Certification Credit Requirements in the pest control category in which the individual is certified and desires to retain certification. A ~~Continuing Certification Credit~~ “Continuing Certification Credit” is defined as one hour of approved Continuing Certification Training. Continuing Certification Training ~~must shall~~ be approved by the Board and such training may consist of grower meetings, seminars, short courses, or other presentations taught by extension pesticide personnel, or other privately or publicly sponsored training organizations approved by the Board. Continuing Certification Credit Requirements for each pest control category are as follows:

- | | | |
|------|----------------------------|------------------------------|
| (1) | aquatic | 6 credits per 5-year period |
| (2) | public health | 6 credits per 5-year period |
| (3) | forest | 6 credits per 5-year period |
| (4) | right-of-way | 4 credits per 5-year period |
| (5) | regulatory | 6 credits per 5-year period |
| (6) | ag pest-animal | 6 credits per 5-year period |
| (7) | ornamental and turf | 10 credits per 5-year period |
| (8) | seed treatment | 3 credits per 5-year period |
| (9) | ag pest-plant | 10 credits per 5-year period |
| (10) | demonstration and research | 10 credits per 5-year period |

The Continuing Certification Credits required for demonstration and research may consist of any combination of credits divided between training in the primary categories (1) through (9) of this Rule and training in demonstration and research.

- | | | |
|------|--------|-----------------------------|
| (11) | aerial | 4 credits per 2-year period |
|------|--------|-----------------------------|

The Continuing Certification Credits required for aerial applicators shall ~~must~~ include one credit obtained through training in aerial methods.

- | | | |
|------|--|------------------------------------|
| (12) | wood treatment | 4 credits per 5-year period |
| (13) | <u>soil and growing media fumigation</u> | <u>3 credits per 5-year period</u> |

The Continuing Certification Credits established for each ground application pest control category ~~must shall~~ be obtained in at least two years of the five-year period.

(b) Participation in one training session conducted by extension pesticide personnel, or other approved organizations, during the recertification period, and satisfactory passing of a written comprehensive examination administered by the North Carolina Department of Agriculture and Consumer Services personnel at the conclusion of training.

(c) ~~Satisfactory passing of~~ Passing a written comprehensive examination administered by North Carolina Department of Agriculture and Consumer Services personnel and based on training materials ~~which that~~ have been approved by the Board.

1

2 *History Note:* Authority G.S. 143-437(1); 143-440(b); 143-453(c)(2); 143-455(d);

3 *Eff. September 10, 1980;*

4 *Amended Eff. May 1, 2016; November 1, 1984.*

5

REQUEST FOR TECHNICAL CHANGE

AGENCY: Pesticide Board

RULE CITATION: 02 NCAC 09L .1102

DEADLINE FOR RECEIPT: Friday, April 8, 2016

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:

Please change the Introductory Statement to "is amended with changes"

Please insert page numbers. (See Rule 26 NCAC 02C .0108(1)(h))

In (b)(1), line 7, please replace "him" and "his" with "him or her" and "his or her" Or simply state "by the person or the person's employer;"

Thank you for inserting spaces between the terms and the hyphens and the definitions on lines 4, 5, 11, and 21. You do not need to highlight the hyphens, however.

In Paragraph (c), please consider further breaking it down into Subparagraphs:

(c) Private pesticide applicator certification standards review – a training session designed to advance a private pesticide applicator's practical knowledge in areas such as:

- (1) the pest problems and pest control practices associated with agricultural practices;*
- (2) storage...*

Also in Paragraph (c), who creates these sessions? The Board or the instructor? How long do they last? How does one register for these? Is there a cost?

On line 13, define "proper"

On line 14, you may wish to state "local environmental situations to consider during application..."

On line 18, what are "sources of advice and guidance necessary for the safe and proper use"? What is "proper" use?

On line 20, how are the individuals approved by the Board? Is this in Rule or law?

In (d), line 21, replace "must" with "shall"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

On line 22 and 25, how is the training approved? How does one seek approval? Is this in Rule or law?

On line 23, what other "Board-approved presentations" are you referring to?

In (d)(4), line 29, should the term be "ornamental" (singular) to be consistent with Rule 02 NCAC 09L .0505?

On line 33, these terms aren't defined in that Rule. I suggest stating "set forth in" or "established by"

In the History Note, please change the effective date to May 1, 2016.

Also in the History Note, isn't G.S. 143-453 applicable here? Shouldn't it be added to the History Note?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

02 NCAC 09L .1102 is proposed for amendment as published in 29:16 NCR 1933 as follows:

02 NCAC 09L .1102 DEFINITIONS

(a) Certified applicator any individual who is certified to use or supervise the use of any restricted use pesticide.

(b) Private pesticide applicator a person who uses or supervises the use of any restricted use pesticide under the following conditions:

(1) for the purpose of producing any agricultural commodity on property owned or rented by him or his employer, or employer; or

(2) if the pesticide is applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.

(c) Private pesticide applicator certification standards review a comprehensive training session designed to advance a private pesticide applicator's practical knowledge in areas such as the pest problems and pest control practices associated with agricultural operations; proper storage, use, handling, and disposal of pesticides and their containers; labels and labeling information; local environmental situations that must be considered during application to avoid contamination; recognition of poisoning symptoms and procedures to follow in case of a pesticide accident; protective clothing, equipment, and other appropriate worker protection standards; appropriate federal and state pesticide laws and regulations and the applicator's related legal responsibility; current agricultural production-related pesticide technology; and sources of advice and guidance necessary for the safe and proper use of each pesticide related to his/her his or her certification. These training sessions will shall be taught by Cooperative Extension Service pesticide training agents or other individuals approved by the Board.

(d) Continuing certification credit one hour of continuing certification training. Continuing certification training must be approved by the Board. Such training may be offered during grower meetings, seminars, short courses, or other Board-approved presentations taught by Cooperative Extension Service pesticide training agents, or other privately or publicly sponsored training organizations. Private applicators may also earn continuing certification credits by attending approved training sessions for which credit has been assigned in the following commercial categories:

- (1) aquatic;
- (2) agricultural pest - animal;
- (3) agricultural pest - plant;
- (4) ornamentals and turf;
- (5) forest; and
- (6) seed treatment, treatment; and
- (7) soil and growing media fumigation.

as defined in 02 NCAC 09L .0505(1)(a) through (1)(h)-(k).

History Note: Authority G.S. 143-440;

Eff. December 1, 1976;

Amended Eff. July 1, 2015; October 1, 2002; November 1, 1988; July 1, 1987; February 5, 1978;

April 20, 1977.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Pesticide Board

RULE CITATION: 02 NCAC 09L .1104

DEADLINE FOR RECEIPT: Friday, April 8, 2016

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:

Please change the introductory statement to "is amended"

In Paragraph (a) on line 4, is the "did not anticipate a need" necessary?

On line 5, under what circumstances will the permit not be granted? I am especially concerned about the lack of guidelines, since this is being delegated to the county coordinator, rather than being issued by the Board.

On line 19, as needed by whom? The Board? The Department? What are you trying to say here? And who has to provide copies of the permit – the extension service or the permittee?

In (d), line 21, what are "fumigants"?

Also in (d), this is the first time the phrase "single purchase emergency certification permit" is used. Should it be in (a) as well?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

02 NCAC 09L .1104 is proposed for amendment with changes as published in 29L16 29:16 NCR 1933 as follows:

02 NCAC 09L .1104 SINGLE PURCHASE EMERGENCY CERTIFICATION PERMIT

(a) For emergency certification of any applicant who has not previously been certified and did not anticipate need for a restricted use pesticide, a 10-day permit ~~can~~ may be issued by his or her resident county agricultural extension service pesticide coordinator authorizing the purchase and use of one restricted use pesticide for one application to a crop or site. Prior to issuance of the ~~permit~~ permit, the resident county agricultural extension service pesticide coordinator shall:

(1) provide the applicant with a training manual and information relative to obtaining full private pesticide applicator ~~certification~~, certification; and

(2) discuss with the applicant proper use of the restricted use pesticide.

(b) If the individual requires further use of restricted use pesticides, he ~~or she must~~ shall complete one of the certification options ~~explained~~ set forth in Rule .1103 of this Section.

(c) The agricultural extension service pesticide coordinator shall keep a copy of the permit provided by the North Carolina Department of Agriculture ~~which that~~ contains the following information:

(1) the name and address of the ~~applicant~~, applicant;

(2) the name and amount of restricted use ~~pesticide~~, pesticide;

(3) the crop or site to be ~~treated~~, treated; and

(4) the date the permit was issued.

Copies of the permits ~~will~~ shall be available for review on an as-needed basis by the North Carolina Department of Agriculture.

(d) A single purchase emergency certification permit shall not be issued for fumigants.

History Note: Authority G.S. 143-440;

Eff. December 1, 1976;

Amended Eff. May 1, 2016; August 26, 1977.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Pesticide Board

RULE CITATION: 02 NCAC 09L .1108

DEADLINE FOR RECEIPT: Friday, April 8, 2016

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:

Please change the Introductory Statement to "is amended"

In Paragraph (c), line 9, I take it the regulated public will know what the "applicable" subclass is?

In the History Note, isn't G.S. 143-453 applicable here? Shouldn't it be added to the History Note?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: March 24, 2016

02 NCAC 09L .1108 is proposed for amendment with changes as published in 29:16 NCR 1934 as follows:

02 NCAC 09L .1108 TERM OF CERTIFICATION; RECERTIFICATION

(a) The term of certification shall be for a period of three years.

(b) In order to be recertified as a private pesticide applicator without a written examination, a person must shall complete two hours of private pesticide applicator certification standards review, plus two continuing certification credit hours, as defined in 02 NCAC 09L .1102(d)-Rule .1102(d) of this Section.

(c) A private pesticide applicator certified in the subclass of soil and growing media fumigation or agricultural commodity fumigation shall earn one hour of continuing certification credit specific to each applicable subclass to retain the subclass certification.

History Note: Authority G.S. 143-440;

Eff. July 1, 1987;

Amended Eff. May 1, 2016; October 1, 2002.