

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Sent: Tuesday, October 29, 2024 1:02 PM

To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mclennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Subject: RE: NC Pesticide Board Rules-October 2024

Mr. Wiggs,

Yes, John Feagans will be joining virtually and can speak to any questions that the commissioners may have. I plan to attend in-person, but John would be the subject matter expert and I would defer to him for any specific questions.

Thank you!

Anna R. Hayworth | Agricultural Programs Specialist

Office of the Assistant Commissioner of Consumer Protection

NC Department of Agriculture and Consumer Services

1002 Mail Service Center | Raleigh, NC 27699

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anna.hayworth@ncagr.gov

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Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Tuesday, October 29, 2024 12:03 PM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Subject: RE: NC Pesticide Board Rules-October 2024

Ms. Hayworth,

Will you or another representative from your agency be present at the RRC meeting tomorrow? I'm asking because one commissioner has contacted me with a question about 02 NCAC 09L .0503(a). The commissioner has suggested that the word "situations"(line 6) be replaced with "treatments" or "conditions and treatments". I replied that "treatments" might not cover all the methods used to apply pesticides. My understanding is that the pesticide industry uses the word "treatments" when referring to the process of applying pesticides to seeds prior to planting them in soil. I believe "situations" covers this process and the application of pesticides through sprayers or other equipment that is used in the industry. Please correct me if my understanding is not accurate. A technical change can be made today or tomorrow during the meeting, if that's appropriate.

I wanted to notify you of the commissioner's suggestion in case he mentions this as a point of discussion tomorrow at the meeting. The commissioner may decide not to mention it tomorrow or, if he does, his fellow commissioners might not agree with his suggested change.

Please reply to confirm receipt and let me know if you have any questions. Thank you.

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

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Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

From: Hayworth, Anna
Sent: Friday, October 18, 2024 2:22 PM
To: Rules, Oah
Cc: Wiggs, Travis C; Burgos, Alexander N; McLennan, Christopher; Feagans, John E
Subject: RE: NC Pesticide Board Rules-October 2024
Attachments: 02 NCAC 09L .0503.docx; 02 NCAC 09L .0504.docx; 02 NCAC 09L .1105.docx; 02 NCAC 09L .1107.docx; 02 NCAC 09L .1305.docx

Good afternoon,

Please see attached the final revised language as requested by Mr. Travis Wiggs.

Let me know if you need anything additional.

Thank you!

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02 NCAC 09L .0503 is amended with changes as published in 38:23 NCR 1483-1486 as follows:

02 NCAC 09L .0503 PESTICIDE APPLICATORS

(a) ~~The Commissioner shall require the licensing of at~~At least one person at each business location shall hold a pesticide applicator license, and who shall be responsible for the application of pesticides for routine pest control situations.

(b) The person licensed as the pesticide applicator shall supervise and guide ~~the activities of~~ all personnel applying pesticides from the business location of the licensee.

(c) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~incorporates by ~~reference~~reference, for all Pesticide Applicators, Part 171.201 "Supervision of Noncertified Applicators", of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B –Certification Requirements for Applicators of Restricted Use Pesticides.", including subsequent ~~amendments,~~amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, ~~website, www.gpoaccess.gov/cfr/index.html~~.

(d) The requirements for direct supervision of noncertified applicators by pesticide applicators are as follows:

(1) The ~~requirements for the~~ supervising pesticide ~~applicator:~~applicator shall:

(A) ~~the supervising pesticide applicator must~~ have ~~a practical~~ knowledge of applicable federal, ~~state~~state, and tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of said pesticide by noncertified applicators; and

(B) ~~the supervising pesticide applicator must~~ be certified in each ~~category~~category, as set forth in Rule 02 NCAC [09L .0505]09L .0505, applicable to the supervised pesticide use.

~~(2) (C)~~ ~~Requirements for the noncertified applicator include that the supervising pesticide applicator must~~ ensure that each noncertified applicator using any pesticide under his or her direct supervision meets all of the following requirements before using any ~~pesticide:~~pesticide:

~~(A)~~ (1) ~~The~~the non-certified applicator has satisfied one of the qualification requirements under Paragraph (c) of this ~~Rule;~~ Rule; ~~including the following:~~

(2) the noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides;

(3) ~~and~~the noncertified applicator has met the minimum age required to use pesticides under the supervision of a pesticide applicator, as well as that a noncertified applicator must be at least 18 years ~~old;~~ old;

~~(3) Use specific conditions that must be met for a noncertified applicator to use any pesticide. The supervising pesticide applicator must ensure that all the following requirements are met before allowing a noncertified applicator to use any pesticide under his or her direct supervision.~~

1 ~~(A)~~ (4) ~~The supervising pesticide applicator must~~ ensure that the noncertified applicator
2 has access to the applicable product labeling at all times during its ~~use.~~ use;

3 ~~(B)~~ (5) ~~Where~~ where the labeling of a pesticide product requires that personal protective
4 equipment be worn for mixing, loading, application, or any other use activities, the
5 supervising pesticide applicator must ensure that any noncertified applicator has clean,
6 labeling-required personal protective equipment in proper operating condition and that the
7 personal protective equipment is worn and used correctly for its intended
8 ~~[purpose.]~~ purpose;

9 ~~(C)~~ (6) ~~The supervising pesticide applicator must~~ provide to each noncertified
10 applicator instructions specific to the site and pesticide used, and these instructions must
11 include labeling directions, precautions, and requirements applicable to the specific use
12 and site, and how the characteristics of the use site ~~(e.g.,~~ (for example, surface and ground
13 water, endangered species, local population) and the conditions of application ~~(e.g.,~~ (for
14 example, equipment, method of application, formulation) might increase or decrease the
15 risk of adverse effects, ~~[as well as that]~~ and the supervising pesticide applicator must
16 provide this information in a manner that the noncertified applicator can
17 ~~[understand.]~~ understand;

18 ~~(D)~~ (7) ~~The supervising pesticide applicator must~~ ensure that before each day of use,
19 equipment used for mixing, loading, transferring, or applying pesticides is in proper
20 operating condition as intended by the manufacturer and can be used without risk of
21 reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the
22 ~~[environment.]~~ environment;

23 ~~(E)~~ (8) ~~The supervising pesticide applicator must~~ ensure that a means to immediately
24 communicate with the supervising pesticide applicator is available to each noncertified
25 applicator using any pesticide under his or her direct ~~[supervision.]~~ supervision;

26 ~~(F)~~ (9) ~~The supervising pesticide applicator must~~ be physically present at the site of the
27 use being supervised when required by the product ~~[labeling.]~~ labeling; and

28 ~~(G)~~ (10) ~~The supervising pesticide applicator must~~ create and verify the existence of the
29 records required by Paragraph (g) of this Rule of the qualification method being
30 ~~[completed/verified.]~~ verified;

31 (e) Before any noncertified applicator uses any pesticide under the direct supervision of a pesticide applicator, the
32 supervising pesticide applicator must ensure that the noncertified applicator has met at least one of the following
33 qualifications; requirements in Paragraph (c):

34 (1) the noncertified applicator has been trained in accordance with Paragraph (f) of this Rule within the
35 last 12 months;

36 (2) the noncertified applicator has met training requirements for an agricultural handler under 40 CFR
37 170.501 within the last 12 months;

1 (3) the noncertified applicator has met the requirements established by a certifying authority that meet
2 or exceed the standards in Subparagraph (f)(3) of this Rule; or

3 (4) the noncertified applicator is currently a certified applicator but is not certified to perform the type
4 of application being conducted or is not certified in North Carolina.

5 (f) Guidelines for the noncertified applicator training program ~~[and their subsections]~~ shall be ~~[detailed]~~ as follows.

6 (1) General noncertified applicator training must be presented to noncertified applicators orally from
7 written materials or audio visually. The information must be presented in a manner that the
8 noncertified applicators can understand. The person conducting the training must be present during
9 the entire training program and must respond to the noncertified applicators' questions.

10 (2) The person who conducts the training must meet at least one of the following criteria:

11 (A) be currently certified as a pesticide applicator;

12 (B) be currently designated as a trainer of certified applicators or pesticide handlers by EPA,
13 the certifying authority, or a state, tribal, or federal agency having jurisdiction; or

14 (C) have completed an EPA-approved pesticide safety train-the-trainer program for trainers of
15 handlers under 40 CFR part 170.

16 (3) The noncertified applicator training materials must include information on how the noncertified
17 applicators can protect themselves, other people, and the ~~[environment]~~ environment, before, during
18 and after ~~[making]~~ a pesticide application. The noncertified applicator training materials must
19 include, at a minimum, the following:

20 (A) potential hazards from toxicity and exposure that pesticides present to noncertified
21 applicators and their families, including acute and chronic effects, delayed effects, and
22 sensitization;

23 (B) routes through which pesticides can enter the body;

24 (C) signs and symptoms of common types of pesticide poisonings;

25 (D) emergency first aid for pesticide injuries or poisonings;

26 (E) routine and emergency decontamination procedures, including emergency eye flushing
27 ~~[techniques,] techniques; [including that noncertified applicators must be instructed]~~ that if
28 pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the
29 nearest appropriate location with clean ~~[water,] water; [and that noncertified applicators~~
30 ~~must also be]~~ and instructed to wash or shower with soap and water, shampoo hair, and
31 change into clean clothes as soon as possible;

32 (F) how and when to obtain emergency medical care;

33 (G) after working with pesticides, to wash hands before eating, drinking, using chewing gum
34 or tobacco, or using the toilet;

35 (H) wash or shower with soap and water, shampoo hair and change into clean clothes as soon
36 as possible after working with pesticides;

37 (I) potential hazards from pesticide residues on clothing;

- (J) wash clothes worn while working with pesticides before wearing them again and wash them separately from other clothes;
- (K) do not take pesticides or pesticide containers used at work to your home;
- (L) potential hazards to children and pregnant women from pesticide exposure;
- (M) remove work boots or shoes worn during a pesticide application before entering your home, and remove work clothes worn during a pesticide application and wash or shower before physical contact with children or family members;
- (N) how to report suspected pesticide use violations to the appropriate state or tribal agency responsible for pesticide enforcement;
- (O) the format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the licensed applicator to be physically present during the use of the [pesticide] pesticide, and information on personal protective equipment;
- (P) the need for, and appropriate use and removal of, personal protective equipment;
- (Q) how to recognize, prevent, and provide first aid treatment for heat-related [illness; illnesses];
- (R) safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
- (S) environmental concerns such as drift, runoff, and wildlife hazards;
- (T) restricted use pesticides may be used only by a pesticide applicator or by a noncertified applicator working under the direct supervision of a pesticide applicator;
- (U) the supervising pesticide applicator must be present at the site only when required by the product labeling;
- (V) the supervising pesticide applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used, and that these instructions must include labeling directions, precautions, and requirements applicable to the specific use and [site] site, and how the characteristics of the use site [e.g.,] (for example, surface and ground water, endangered species, local population, and risks) and the conditions of application [e.g.,] (for example, equipment, method of application, formulation, and risk of adverse effects), [and these instructions] must be provided by the supervising pesticide applicator in a manner the noncertified applicator can understand;
- (W) the supervising pesticide applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use;
- (X) the supervising pesticide applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling

1 required personal protective equipment in proper operating ~~condition~~ condition, and that
2 the personal protective equipment is worn and used correctly for its intended purpose;

3 (Y) the supervising pesticide applicator's responsibility to ensure that before each day of use,
4 equipment used for mixing, loading, transferring, or applying pesticides is in proper
5 operating condition as intended by the manufacturer, and can be used without risk of
6 reasonably foreseeable adverse effects to the noncertified applicator, other
7 ~~persons~~ persons, or the environment; and

8 (Z) the supervising pesticide applicator's responsibility to ensure that a means to immediately
9 communicate with the supervising pesticide applicator is available to each noncertified
10 applicator using any pesticide under his or her direct supervision.

11 (g) All applicators must adhere to the provisions of recordkeeping ~~as outlined in the following section and~~
12 ~~subsection;~~ as follows:

13 (1) Before allowing a noncertified applicator to make any pesticide application under their direct
14 supervision, the supervising pesticide applicator must create or verify the existence of records
15 documenting that each noncertified applicator has the qualifications required in
16 ~~paragraph~~ Paragraph (e) of this section. For each noncertified applicator, the records must
17 contain the information ~~appropriate~~ corresponding to the method of qualification.

18 (A) If the noncertified applicator was trained in accordance with ~~Paragraph (e)~~
19 ~~(1)~~ Subparagraph (e)(1) of this Rule, the record must contain all of the following
20 information: the noncertified applicator's printed name and signature; the date
21 the training requirement in Paragraph (d) of this Rule was met; the name of the
22 person who provided the training; and the title or a description of the training
23 provided.

24 (B) If the noncertified applicator was trained as an agricultural handler under ~~40 CFR~~
25 ~~170.501~~ 40 CFR 170.501, in accordance with Subparagraph (e)(2) of this Rule,
26 the record must contain all of the information required ~~at~~ in 40 CFR 170.501
27 (d)(1).

28 (C) If the noncertified applicator qualified by satisfying the requirements established
29 by the certifying authority, as described in Subparagraph (e)(3) of this Rule, the
30 record must contain the information required by the certifying authority.

31 (D) If the noncertified applicator is an otherwise certified applicator who is not
32 certified to perform the type of application being ~~conducted~~ conducted, or not
33 certified in the jurisdiction where the use will take place, as described in
34 Subparagraph (e)(4) of this Rule, the record must include all of the following
35 information: the noncertified applicator's name; the noncertified applicator's
36 certification number; the expiration date of the noncertified applicator's
37 certification; and the certifying authority that issued the certification.

(2) The supervising pesticide applicator must create or verify the existence of the record containing the information in Subparagraph (g)(1) of this Rule before allowing the noncertified applicator to use any pesticides under his or her direct supervision.

(h) The pesticide applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (g)(1) of this Rule at the supervising pesticide applicator's principal place of business for three years from the date the noncertified applicator uses the pesticide.

History Note: Authority G.S. 143-452; 143-453; 143-458; ~~143-460(30); 143-460(19)(20); 143-460(29);~~
Eff. February 1, 1976;
Readopted Eff. ~~August 1, 2020; August 1, 2020;~~
Amended Eff. November 1, 2024.

02 NCAC 09L .0504 is amended with changes as published in 38:23 NCR 1486-1488 as follows:

02 NCAC 09L .0504 DEFINITIONS

The following definitions apply to ~~Rules .0505, .0506, and .0507 of this Section:~~pesticide applicators:

- (1) ~~"Agricultural pest control":~~ "Agricultural pest control" and its subcategories shall apply to the following:
 - (a) ~~Plant. Includes~~Crop pest control ~~[is the category applied to]~~ means pesticide applicators using or supervising the use of pesticides in the production of agricultural crops, including 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.~~Livestock pest control ~~[is the category applied to]~~ means ~~Includes~~ pesticide applicators using or supervising the use of pesticides on animals, ~~including, but not limited to, the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock,~~ and to places where animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides are included in this category. The following subcategories are defined as follows:
 - (i) livestock: ~~[is the category applied to]~~ means the application of pesticides to domesticated animals being raised as an agricultural commodity or for the purpose of producing an ag commodity;
 - (ii) poultry: ~~[is the category applied to]~~ means the application of pesticides to poultry domestic fowl ~~[or poultry operations;]~~ and to the areas in which they are confined; and
 - (iii) small animal: ~~[is the category applied to]~~ means the application of pesticides to pets or the areas where they are confined.
- (2) "Forest pest control" ~~includes~~ means ~~[the category of]~~ pesticide applicators using or supervising the use of pesticides in forests, forest nurseries, and forest ~~seed producing areas.~~ seed production.
- (3) "Ornamental and turf pest control" ~~includes~~ means ~~[the category of]~~ pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental ~~trees, shrubs, flowers, and turf plants and turf.~~
- (4) ~~"Seed treatment" includes pesticide applicators using or supervising the use of pesticides on seeds.~~ "Aquatic pest control" means ~~[the category of 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 Items (6) and (7) of this Rule.
- (5) ~~"Aquatic pest control" includes pesticide applicators using or supervising the use of any pesticide intended to be applied to standing or running water, excluding applicators engaged in public health related activities included in Item (7) of this Rule.~~ "Right-of-way pest control" means ~~[the~~

- 1 ~~category of pesticide applicators~~ using or supervising the use of pesticides in the maintenance of
2 public roads, electric powerlines, pipelines, railway rights-of-way, or other similar areas.
- 3 (6) "Right of way pest control" includes pesticide applicators using or supervising the use of
4 pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights of-
5 way, or other similar areas. "Public health pest control" means ~~the category of~~ state, tribal,
6 federal, or other governmental employees and contractors using or supervising the use of
7 pesticides in government sponsored public health programs for the management and control of
8 pests having medical and public health importance.
- 9 (7) "Public health pest control" includes primarily, but is not limited to, state, federal, or other
10 governmental employees using or supervising the use of pesticides in public health programs for
11 the management and control of pests having medical and public health importance. "Commercial
12 Public Health pest control" means ~~the category of persons~~ using or supervising the use of
13 pesticides commercially for the management and control of pests having medical and public health
14 importance.
- 15 (8) "Regulatory pest control" ~~includes~~ means ~~the category of~~ state, tribal, federal, or other
16 governmental employees who use or supervise the use of pesticides in government-sponsored
17 programs for the control of regulated pests.
- 18 (9) "Demonstration and research pest control" ~~includes~~ means ~~the category of~~ the following:
19 (a) persons who demonstrate to the public the use and techniques of application of
20 ~~pesticides~~ pesticides, or supervise such demonstration, including extension specialists and
21 county agents; commercial representatives demonstrating pesticide ~~products, products; and~~
22 ~~these~~ persons demonstrating methods used in public programs; and
23 (b) persons who use or supervise the use of pesticides while conducting field research with
24 pesticides. This includes state, federal, commercial, and other persons conducting field
25 research on or utilizing pesticides.
- 26 (10) "Wood treatment" ~~includes pesticide applicators using or supervising the use of restricted use~~
27 ~~pesticides in wood preservation and wood products treatment.~~ "Seed treatment" means ~~the~~
28 ~~category of pesticide applicators~~ using or supervising the use of pesticides on seeds in seed
29 treatment facilities.
- 30 (11) "Soil and growing media fumigation pest control" includes individuals using or supervising the use
31 of any fumigant pesticide injected or applied to soils or growing media. This category excludes
32 fumigation of raw agricultural commodities and all structural fumigation such as:
33 (a) — boxcars;
34 (b) — warehouses;
35 (c) — tractor trailers; and
36 (d) — grain bins.

- 1 "Wood treatment" means ~~the category of individuals~~ applying pesticides to wood products such
2 as crossties, poles, logs, shingles, posts or other wood products that are not part of a structure
3 when ~~treated~~ treated, and are or will be exposed to insects, fungi, marine pests, or weather. This
4 category does not include treatment for the control of termites and other wood destroying
5 organisms in houses or in an area as pretreatment prior to the construction of a structure.
- 6 (12) "Growing media" includes a substance or substances through which roots grow and extract water
7 and nutrients. "Soil and growing media fumigation pest control" means ~~individuals~~ using or
8 supervising the use of any fumigant pesticide injected or applied to soils or growing media.
9 Growing media is defined below in Paragraph (14) of this Rule. This category excludes
10 fumigation of raw agricultural commodities and all structural fumigation such as:
- 11 (a) boxcars;
12 (b) warehouses;
13 (c) tractor trailers; and
14 (d) grain bins.
- 15 (13) "Aerial pest control" means the category of commercial applicators who use or supervise the use
16 of pesticides applied by fixed or rotary wing aircraft.
- 17 (14) "Growing media" means a substance or substances through which roots grow and extract water
18 and nutrients.
- 19 (15) "Noncertified applicator" means any person who does not meet the requirements set forth in
20 Rule 02 NCAC 9L .0503 to be a pesticide applicator, but who has met the requirements set forth
21 in Rule 02 NCAC 09L .0503(d)(2), ~~and~~ and who is using a pesticide under the direct supervision
22 of a pesticide applicator in accordance with Rule 02 NCAC 9L .0503(c).
- 23
- 24 History Note: Authority G.S. 143-437; 143-452(d); 143-460(29); 40 C.F.R. 171.3;
25 Eff. February 1, 1976;
26 Amended Eff. June 1, 2016; November 1, 1984; August 1, 1982; October 27, 1979;
27 Readopted Eff. ~~August 1, 2020~~ August 1, 2020;
28 Amended Eff. November 1, 2024.

02 NCAC 09L .1105 is amended with changes as published in 38:23 NCR 1495 as follows:

02 NCAC 09L .1105 APPLICATIONS UNDER SUPERVISION OF CERTIFIED APPLICATOR

~~(a) The certified applicator acting in a supervisory role shall be available to the non-certified applicator in the event he is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator aware of all directions for use and cautions for safe use and application of any restricted use pesticide he or she may be directed to apply.~~

(a) [ADOPTION BY REFERENCE.] The North Carolina Pesticide Board hereby [adopts] [incorporates] by reference, including subsequent [amendments, amendments and editions], Part 171.201 (a) through (d) of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart C—Supervision of Noncertified Applicators." Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, [website, www.gpoaccess.gov/cfr/index.html].

~~(b) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application site or at the loading and mixing site, if different from the application site, the following:~~

- ~~(1) — written or printed directions for applying the restricted use pesticide, which may include pesticide product labeling;~~
- ~~(2) — written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and unreasonable adverse effects on the environment which may include pesticide product labeling; and~~
- ~~(3) — instructions for direct communication with the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.); Such instructions, when followed, shall be considered direct communication with the certified applicator.~~

(b) All certified applicators must adhere to the provisions of recordkeeping as outlined throughout [in the following chapter and subchapters of this section.] Rule 02 NCAC 09L.

- (1) Before allowing a noncertified applicator to make a restricted use pesticide application under their direct supervision, the supervising certified applicator must create or verify the existence of records documenting that each noncertified applicator has the qualifications required in 40 CFR 171.201(c). [For each noncertified applicator, the records must contain the information appropriate to the method of qualification as follows.] For each noncertified applicator, the records must contain the information appropriate to the method of qualification as provided in Parts (b)(1)(A) through (b)(1)(D) of this Rule.

(A) If the noncertified applicator was trained in accordance with CFR 171.201(c)(1), the record must contain all of the following information: the noncertified applicator's printed name and signature; the date the training requirement in CFR 171.201(c) was met; the name of the person who provided the training; and the title or a description of the training provided.

- (B) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in accordance with CFR 171.201(c)(2), the record must contain all of the information required in 40 CFR 170.501 (d)(1).
- (C) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, as described in CFR 171.201(c)(3), the record must contain the information required by the certifying authority.
- (D) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted, or not certified in the jurisdiction where the use will take place, as described in CFR 171.201(c)(4), the record must include all of the following information: the noncertified applicator's name; the noncertified applicator's certification number; the expiration date of the noncertified applicator's certification; and the certifying authority that issued the certification.
- (2) The certified applicator must create or verify the existence of the record containing the information in Subparagraph (b)(1) of this Rule before allowing the noncertified applicator to use any restricted use pesticides under his or her direct supervision.
- (3) The certified applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (b)(1) of this Rule for three years from the date the noncertified applicator use the pesticide.
- (c) The certified applicator ~~[acting in a supervisory role]~~providing direct supervision shall be available to the non-certified applicator in the event he or she is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator fully aware of all directions for use and cautions necessary for safe use and application of any restricted use pesticide they may be directed to apply.
- (d) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application ~~[site]~~site, or at the loading and mixing site, if different from the application site, the following:
- (1) detailed written or printed directions for applying the restricted use pesticide (pesticide product label ~~[may]~~will suffice);
- (2) detailed written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and/or unreasonable adverse effects on the environment (pesticide product label ~~[may]~~will suffice); and
- (3) detailed instructions for contacting the certified applicator under whose supervision the non-certified applicator is working ~~[(i.e.,)]~~(for example, name, location, telephone number, radio ~~[contact, etc.]~~contact), and such instructions, when followed, shall result in direct communication with the certified applicator.

*History Note: Authority G.S. 143-440;
Eff. December 1, 1976;*

1 *Amended Eff. February 5, 1978;*
2 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*
3 *Amended Eff. November 1, 2024.*

02 NCAC 09L .1107 is amended with changes as published in 38:23 NCR 1496 as follows:

02 NCAC 09L .1107 AGE LIMITATIONS

Individuals who wish to be certified as private pesticide applicators shall be ~~at least 18~~ years old prior to participating in a certification option or being issued a single purchase permit under the emergency certification procedure; however, in hardship cases individuals below the age of 16 may be licensed by the Board on an individual basis when they demonstrate to the Board by written, or written and oral examination their qualifications as a private pesticide applicator. ~~[procedure.]~~ procedure, as set forth in Rule 02 NCAC 09L .1104.

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

Eff. December 1, 1976;

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .01305 is amended with changes as published in 38:23 NCR 1496-1497 as follows:

02 NCAC 09L .1305 RECORD KEEPING REQUIREMENTS

All licensed pesticide dealers, as defined in G.S. 143-460, shall keep records of all sales of restricted use pesticides showing the following:

- (1) date of sale;
- (2) initials of sales clerk;
- (3) name of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this ~~Section~~Section, or ~~[noncertified]~~noncertified ~~[employees]~~employees, as set out in Rule .1303 of this Section;
- (4) certification or license number of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this Section;
- (5) certification or license expiration date as shown on the certified or licensed applicator's certification card;
- ~~(6) product brand name;~~
- ~~(6) categories held by certified or licensed applicator;~~
- ~~(7) EPA registration number;~~
- ~~(7) product brand name;~~
- ~~(8) number of individual containers;~~
- ~~(8) EPA registration number;~~
- ~~(9) size of individual containers; and~~
- ~~(9) number of individual containers;~~
- ~~(10) total quantity sold.~~
- ~~(10) size of individual containers; and~~
- ~~(11) total quantity sold.~~

History Note: Authority G.S. 143-437; 143-440; 143-466;
Temporary Adoption Eff. November 1, 2001;
Eff. August 1, 2002;
Readopted Eff. ~~August 1, 2020~~August 1, 2020;
Amended Eff. November 1, 2024.

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Thursday, October 17, 2024 2:43 PM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mclennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Subject: RE: NC Pesticide Board Rules-October 2024

Thank you, Ms. Hayworth. Please send the final versions of **.0503, .0504, .1105, .1107, and .1305** to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX). Please include me on the email. The remaining final revised rules were already received and do not need to be resent.

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024
Attachments: 02 NCAC 09L .1105.docx; 02 NCAC 09L .1305.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Thursday, October 17, 2024 1:13 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Mr. Wiggs,

My apologies, corrections attached. I must have missed those on the previous pass.

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
1002 Mail Service Center | Raleigh, NC 27699
Office: (984) 236-4509 (new office)
Cell: (919) 745-9356
anna.hayworth@ncagr.gov

02 NCAC 09L .1105 is amended with changes as published in 38:23 NCR 1495 as follows:

02 NCAC 09L .1105 APPLICATIONS UNDER SUPERVISION OF CERTIFIED APPLICATOR

~~(a) The certified applicator acting in a supervisory role shall be available to the non-certified applicator in the event he is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator aware of all directions for use and cautions for safe use and application of any restricted use pesticide he or she may be directed to apply.~~

(a) [ADOPTION BY REFERENCE.] The North Carolina Pesticide Board hereby [adopts] [incorporates] by reference, including subsequent [amendments, amendments and editions], Part 171.201 (a) through (d) of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart C—Supervision of Noncertified Applicators." Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, [website, www.gpoaccess.gov/cfr/index.html].

~~(b) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application site or at the loading and mixing site, if different from the application site, the following:~~

- ~~(1) — written or printed directions for applying the restricted use pesticide, which may include pesticide product labeling;~~
- ~~(2) — written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and unreasonable adverse effects on the environment which may include pesticide product labeling; and~~
- ~~(3) — instructions for direct communication with the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.); Such instructions, when followed, shall be considered direct communication with the certified applicator.~~

(b) All certified applicators must adhere to the provisions of recordkeeping as outlined throughout [in the following chapter and subchapters of this section.] Rule 02 NCAC 09L.

- (1) Before allowing a noncertified applicator to make a restricted use pesticide application under their direct supervision, the supervising certified applicator must create or verify the existence of records documenting that each noncertified applicator has the qualifications required in 40 CFR 171.201(c). [For each noncertified applicator, the records must contain the information appropriate to the method of qualification as follows.] For each noncertified applicator, the records must contain the information appropriate to the method of qualification as provided in Parts (b)(1)(A) through (b)(1)(D) of this Rule.

(A) If the noncertified applicator was trained in accordance with CFR 171.201(c)(1), the record must contain all of the following information: the noncertified applicator's printed name and signature; the date the training requirement in CFR 171.201(c) was met; the name of the person who provided the training; and the title or a description of the training provided.

- (B) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in accordance with CFR 171.201(c)(2), the record must contain all of the information required in 40 CFR 170.501 (d)(1).
- (C) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, as described in CFR 171.201(c)(3), the record must contain the information required by the certifying authority.
- (D) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted, or not certified in the jurisdiction where the use will take place, as described in CFR 171.201(c)(4), the record must include all of the following information: the noncertified applicator's name; the noncertified applicator's certification number; the expiration date of the noncertified applicator's certification; and the certifying authority that issued the certification.
- (2) The certified applicator must create or verify the existence of the record containing the information in Subparagraph (b)(1) of this Rule before allowing the noncertified applicator to use any restricted use pesticides under his or her direct supervision.
- (3) The certified applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (b)(1) of this Rule for three years from the date the noncertified applicator use the pesticide.
- (c) The certified applicator ~~[acting in a supervisory role]~~providing direct supervision shall be available to the non-certified applicator in the event he or she is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator fully aware of all directions for use and cautions necessary for safe use and application of any restricted use pesticide they may be directed to apply.
- (d) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application ~~[site]~~site, or at the loading and mixing site, if different from the application site, the following:
- (1) detailed written or printed directions for applying the restricted use pesticide (pesticide product label ~~[may]~~will suffice);
- (2) detailed written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and/or unreasonable adverse effects on the environment (pesticide product label ~~[may]~~will suffice); and
- (3) detailed instructions for contacting the certified applicator under whose supervision the non-certified applicator is working ~~[(i.e.,)]~~(for example, name, location, telephone number, radio ~~[contact, etc.]~~contact), and such instructions, when followed, shall result in direct communication with the certified applicator.

History Note: Authority G.S. 143-440;
Eff. December 1, 1976;

1 *Amended Eff. February 5, 1978;*
2 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*
3 *Amended Eff. November 1, 2024.*

02 NCAC 09L .01305 is amended with changes as published in 38:23 NCR 1496-1497 as follows:

02 NCAC 09L .1305 RECORD KEEPING REQUIREMENTS

All licensed pesticide dealers, as defined in G.S. 143-460, shall keep records of all sales of restricted use pesticides showing the following:

- (1) date of sale;
- (2) initials of sales clerk;
- (3) name of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this ~~Section~~Section, or ~~[noncertified]~~noncertified ~~[employees]~~employees, as set out in Rule .1303 of this Section;
- (4) certification or license number of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this Section;
- (5) certification or license expiration date as shown on the certified or licensed applicator's certification card;
- ~~(6) product brand name;~~
- ~~(6) categories held by certified or licensed applicator;~~
- ~~(7) EPA registration number;~~
- ~~(7) product brand name;~~
- ~~(8) number of individual containers;~~
- ~~(8) EPA registration number;~~
- ~~(9) size of individual containers; and~~
- ~~(9) number of individual containers;~~
- ~~(10) total quantity sold.~~
- ~~(10) size of individual containers; and~~
- ~~(11) total quantity sold.~~

History Note: *Authority G.S. 143-437; 143-440; 143-466;*
Temporary Adoption Eff. November 1, 2001;
Eff. August 1, 2002;
Readopted Eff. ~~August 1, 2020~~August 1, 2020;
Amended Eff. November 1, 2024.

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Thursday, October 17, 2024 8:49 AM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mclennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Subject: RE: NC Pesticide Board Rules-October 2024

Good morning,

Thank you for the revisions. I don't see where the two requests below were made in each rule:

.1105:

- On pg. 2, now line 33, please don't use "etc.", per the OAH Style Guide.

.1305:

- In (3), line 9, please add the comma after "employees".

Please reply with those changes incorporated.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024
Attachments: 02 NCAC 09L .0503.docx; 02 NCAC 09L .0504.docx; 02 NCAC 09L .1105.docx; 02 NCAC 09L .1107.docx; 02 NCAC 09L .1305.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Wednesday, October 16, 2024 5:44 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Mr. Wiggs,

See attached the revised rules. Please let me know if you need anything additional.

Thank you!

Anna R. Hayworth | Agricultural Programs Specialist
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NC Department of Agriculture and Consumer Services
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anna.hayworth@ncagr.gov

02 NCAC 09L .0503 is amended with changes as published in 38:23 NCR 1483-1486 as follows:

02 NCAC 09L .0503 PESTICIDE APPLICATORS

(a) ~~The Commissioner shall require the licensing of at~~At least one person at each business location shall hold a pesticide applicator license, and who shall be responsible for the application of pesticides for routine pest control situations.

(b) The person licensed as the pesticide applicator shall supervise and guide ~~the activities of~~ all personnel applying pesticides from the business location of the licensee.

(c) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~incorporates by ~~reference~~reference, for all Pesticide Applicators, Part 171.201 "Supervision of Noncertified Applicators", of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B –Certification Requirements for Applicators of Restricted Use Pesticides.", including subsequent ~~amendments,~~amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, ~~website, www.gpoaccess.gov/cfr/index.html~~.

(d) The requirements for direct supervision of noncertified applicators by pesticide applicators are as follows:

(1) The ~~requirements for the~~ supervising pesticide ~~applicator:~~applicator shall:

(A) ~~the supervising pesticide applicator must~~ have ~~a practical~~ knowledge of applicable federal, ~~state~~state, and tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of said pesticide by noncertified applicators; and

(B) ~~the supervising pesticide applicator must~~ be certified in each ~~category~~category, as set forth in Rule 02 NCAC [09L .0505]09L .0505, applicable to the supervised pesticide use.

~~(2) (C) Requirements for the noncertified applicator include that the supervising pesticide applicator must~~ ensure that each noncertified applicator using any pesticide under his or her direct supervision meets all of the following requirements before using any ~~pesticide:~~pesticide:

~~(A)~~ (1) ~~The~~the non-certified applicator has satisfied one of the qualification requirements under Paragraph (c) of this ~~Rule;~~Rule; ~~including the following:~~

(2) the noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides;

(3) ~~and~~the noncertified applicator has met the minimum age required to use pesticides under the supervision of a pesticide applicator, as well as that a noncertified applicator must be at least 18 years ~~old;~~old;

~~(3) Use specific conditions that must be met for a noncertified applicator to use any pesticide. The supervising pesticide applicator must ensure that all the following requirements are met before allowing a noncertified applicator to use any pesticide under his or her direct supervision.~~

1 ~~(A)~~ (4) ~~The supervising pesticide applicator must~~ ensure that the noncertified applicator
2 has access to the applicable product labeling at all times during its ~~use.~~ use;

3 ~~(B)~~ (5) ~~Where~~ where the labeling of a pesticide product requires that personal protective
4 equipment be worn for mixing, loading, application, or any other use activities, the
5 supervising pesticide applicator must ensure that any noncertified applicator has clean,
6 labeling-required personal protective equipment in proper operating condition and that the
7 personal protective equipment is worn and used correctly for its intended
8 ~~[purpose.]~~ purpose;

9 ~~(C)~~ (6) ~~The supervising pesticide applicator must~~ provide to each noncertified
10 applicator instructions specific to the site and pesticide used, and these instructions must
11 include labeling directions, precautions, and requirements applicable to the specific use
12 and site, and how the characteristics of the use site ~~(e.g.,~~ (for example, surface and ground
13 water, endangered species, local population) and the conditions of application ~~(e.g.,~~ (for
14 example, equipment, method of application, formulation) might increase or decrease the
15 risk of adverse effects, ~~[as well as that]~~ and the supervising pesticide applicator must
16 provide this information in a manner that the noncertified applicator can
17 ~~[understand.]~~ understand;

18 ~~(D)~~ (7) ~~The supervising pesticide applicator must~~ ensure that before each day of use,
19 equipment used for mixing, loading, transferring, or applying pesticides is in proper
20 operating condition as intended by the manufacturer and can be used without risk of
21 reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the
22 ~~[environment.]~~ environment;

23 ~~(E)~~ (8) ~~The supervising pesticide applicator must~~ ensure that a means to immediately
24 communicate with the supervising pesticide applicator is available to each noncertified
25 applicator using any pesticide under his or her direct ~~[supervision.]~~ supervision;

26 ~~(F)~~ (9) ~~The supervising pesticide applicator must~~ be physically present at the site of the
27 use being supervised when required by the product ~~[labeling.]~~ labeling; and

28 ~~(G)~~ (10) ~~The supervising pesticide applicator must~~ create and verify the existence of the
29 records required by Paragraph (g) of this Rule of the qualification method being
30 ~~[completed/verified.]~~ verified;

31 (e) Before any noncertified applicator uses any pesticide under the direct supervision of a pesticide applicator, the
32 supervising pesticide applicator must ensure that the noncertified applicator has met at least one of the [following
33 qualifications; requirements in Paragraph (e):

34 (1) the noncertified applicator has been trained in accordance with Paragraph (f) of this Rule within the
35 last 12 months;

36 (2) the noncertified applicator has met training requirements for an agricultural handler under 40 CFR
37 170.501 within the last 12 months;

1 (3) the noncertified applicator has met the requirements established by a certifying authority that meet
2 or exceed the standards in Subparagraph (f)(3) of this Rule; or

3 (4) the noncertified applicator is currently a certified applicator but is not certified to perform the type
4 of application being conducted or is not certified in North Carolina.

5 (f) Guidelines for the noncertified applicator training program ~~[and their subsections]~~ shall be ~~[detailed]~~ as follows.

6 (1) General noncertified applicator training must be presented to noncertified applicators orally from
7 written materials or audio visually. The information must be presented in a manner that the
8 noncertified applicators can understand. The person conducting the training must be present during
9 the entire training program and must respond to the noncertified applicators' questions.

10 (2) The person who conducts the training must meet at least one of the following criteria:

11 (A) be currently certified as a pesticide applicator;

12 (B) be currently designated as a trainer of certified applicators or pesticide handlers by EPA,
13 the certifying authority, or a state, tribal, or federal agency having jurisdiction; or

14 (C) have completed an EPA-approved pesticide safety train-the-trainer program for trainers of
15 handlers under 40 CFR part 170.

16 (3) The noncertified applicator training materials must include information on how the noncertified
17 applicators can protect themselves, other people, and the ~~[environment]~~ environment, before, during
18 and after ~~[making]~~ a pesticide application. The noncertified applicator training materials must
19 include, at a minimum, the following:

20 (A) potential hazards from toxicity and exposure that pesticides present to noncertified
21 applicators and their families, including acute and chronic effects, delayed effects, and
22 sensitization;

23 (B) routes through which pesticides can enter the body;

24 (C) signs and symptoms of common types of pesticide poisonings;

25 (D) emergency first aid for pesticide injuries or poisonings;

26 (E) routine and emergency decontamination procedures, including emergency eye flushing
27 ~~[techniques,]~~ techniques; ~~[including that noncertified applicators must be instructed]~~ that if
28 pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the
29 nearest appropriate location with clean ~~[water,]~~ water; ~~[and that noncertified applicators~~
30 must also be] and instructed to wash or shower with soap and water, shampoo hair, and
31 change into clean clothes as soon as possible;

32 (F) how and when to obtain emergency medical care;

33 (G) after working with pesticides, to wash hands before eating, drinking, using chewing gum
34 or tobacco, or using the toilet;

35 (H) wash or shower with soap and water, shampoo hair and change into clean clothes as soon
36 as possible after working with pesticides;

37 (I) potential hazards from pesticide residues on clothing;

- (J) wash clothes worn while working with pesticides before wearing them again and wash them separately from other clothes;
- (K) do not take pesticides or pesticide containers used at work to your home;
- (L) potential hazards to children and pregnant women from pesticide exposure;
- (M) remove work boots or shoes worn during a pesticide application before entering your home, and remove work clothes worn during a pesticide application and wash or shower before physical contact with children or family members;
- (N) how to report suspected pesticide use violations to the appropriate state or tribal agency responsible for pesticide enforcement;
- (O) the format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the licensed applicator to be physically present during the use of the [pesticide] pesticide, and information on personal protective equipment;
- (P) the need for, and appropriate use and removal of, personal protective equipment;
- (Q) how to recognize, prevent, and provide first aid treatment for heat-related [illness; illnesses];
- (R) safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
- (S) environmental concerns such as drift, runoff, and wildlife hazards;
- (T) restricted use pesticides may be used only by a pesticide applicator or by a noncertified applicator working under the direct supervision of a pesticide applicator;
- (U) the supervising pesticide applicator must be present at the site only when required by the product labeling;
- (V) the supervising pesticide applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used, and that these instructions must include labeling directions, precautions, and requirements applicable to the specific use and [site] site, and how the characteristics of the use site [e.g.,] (for example, surface and ground water, endangered species, local population, and risks) and the conditions of application [e.g.,] (for example, equipment, method of application, formulation, and risk of adverse effects), [and these instructions] must be provided by the supervising pesticide applicator in a manner the noncertified applicator can understand;
- (W) the supervising pesticide applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use;
- (X) the supervising pesticide applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling

1 required personal protective equipment in proper operating ~~condition~~ condition, and that
2 the personal protective equipment is worn and used correctly for its intended purpose;

3 (Y) the supervising pesticide applicator's responsibility to ensure that before each day of use,
4 equipment used for mixing, loading, transferring, or applying pesticides is in proper
5 operating condition as intended by the manufacturer, and can be used without risk of
6 reasonably foreseeable adverse effects to the noncertified applicator, other
7 ~~persons~~ persons, or the environment; and

8 (Z) the supervising pesticide applicator's responsibility to ensure that a means to immediately
9 communicate with the supervising pesticide applicator is available to each noncertified
10 applicator using any pesticide under his or her direct supervision.

11 (g) All applicators must adhere to the provisions of recordkeeping ~~as outlined in the following section and~~
12 ~~subsection;~~ as follows:

13 (1) Before allowing a noncertified applicator to make any pesticide application under their direct
14 supervision, the supervising pesticide applicator must create or verify the existence of records
15 documenting that each noncertified applicator has the qualifications required in
16 ~~paragraph~~ Paragraph (e) of this section. For each noncertified applicator, the records must
17 contain the information ~~appropriate~~ corresponding to the method of qualification.

18 (A) If the noncertified applicator was trained in accordance with ~~Paragraph (e)~~
19 ~~(1)~~ Subparagraph (e)(1) of this Rule, the record must contain all of the following
20 information: the noncertified applicator's printed name and signature; the date
21 the training requirement in Paragraph (d) of this Rule was met; the name of the
22 person who provided the training; and the title or a description of the training
23 provided.

24 (B) If the noncertified applicator was trained as an agricultural handler under ~~40 CFR~~
25 ~~170.501~~ 40 CFR 170.501, in accordance with Subparagraph (e)(2) of this Rule,
26 the record must contain all of the information required ~~at~~ in 40 CFR 170.501
27 (d)(1).

28 (C) If the noncertified applicator qualified by satisfying the requirements established
29 by the certifying authority, as described in Subparagraph (e)(3) of this Rule, the
30 record must contain the information required by the certifying authority.

31 (D) If the noncertified applicator is an otherwise certified applicator who is not
32 certified to perform the type of application being ~~conducted~~ conducted, or not
33 certified in the jurisdiction where the use will take place, as described in
34 Subparagraph (e)(4) of this Rule, the record must include all of the following
35 information: the noncertified applicator's name; the noncertified applicator's
36 certification number; the expiration date of the noncertified applicator's
37 certification; and the certifying authority that issued the certification.

(2) The supervising pesticide applicator must create or verify the existence of the record containing the information in Subparagraph (g)(1) of this Rule before allowing the noncertified applicator to use any pesticides under his or her direct supervision.

(h) The pesticide applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (g)(1) of this Rule at the supervising pesticide applicator's principal place of business for three years from the date the noncertified applicator uses the pesticide.

History Note: Authority G.S. 143-452; 143-453; 143-458; ~~143-460(30); 143-460(19)(20); 143-460(29);~~
Eff. February 1, 1976;
Readopted Eff. ~~August 1, 2020; August 1, 2020;~~
Amended Eff. November 1, 2024.

02 NCAC 09L .0504 is amended with changes as published in 38:23 NCR 1486-1488 as follows:

02 NCAC 09L .0504 DEFINITIONS

The following definitions apply to ~~Rules .0505, .0506, and .0507 of this Section:~~pesticide applicators:

- (1) ~~"Agricultural pest control":~~ "Agricultural pest control" and it's subcategories shall apply to the following:
 - (a) ~~Plant. Includes~~Crop pest control ~~[is the category applied to]~~ means pesticide applicators using or supervising the use of pesticides in the production of agricultural crops, including 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.~~Livestock pest control ~~[is the category applied to]~~ means. ~~Includes~~ pesticide applicators using or supervising the use of pesticides on animals, ~~including, but not limited to, the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock,~~ and to places where animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides are included in this category. The following subcategories are defined as follows:
 - (i) livestock: [is the category applied to] means the application of pesticides to domesticated animals being raised as an agricultural commodity or for the purpose of producing an ag commodity;
 - (ii) poultry: [is the category applied to] means the application of pesticides to [poultry] domestic fowl [or poultry operations]; and to the areas in which they are confined; and
 - (iii) small animal: [is the category applied to] means the application of pesticides to pets or the areas where they are confined.
- (2) "Forest pest control" ~~includes~~means [the category of] pesticide applicators using or supervising the use of pesticides in forests, forest nurseries, and forest ~~seed producing areas.~~seed production.
- (3) "Ornamental and turf pest control" ~~includes~~means [the category of] pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental ~~trees, shrubs, flowers, and turf plants and turf.~~
- (4) ~~"Seed treatment" includes pesticide applicators using or supervising the use of pesticides on seeds.~~
"Aquatic pest control" means [the category of 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 Items (6) and (7) of this Rule.
- (5) ~~"Aquatic pest control" includes pesticide applicators using or supervising the use of any pesticide intended to be applied to standing or running water, excluding applicators engaged in public health related activities included in Item (7) of this Rule.~~ "Right-of-way pest control" means [the

- 1 ~~category of pesticide applicators~~ using or supervising the use of pesticides in the maintenance of
2 public roads, electric powerlines, pipelines, railway rights-of-way, or other similar areas.
- 3 (6) "Right of way pest control" includes pesticide applicators using or supervising the use of
4 pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights of-
5 way, or other similar areas. "Public health pest control" means ~~the category of~~ state, tribal,
6 federal, or other governmental employees and contractors using or supervising the use of
7 pesticides in government sponsored public health programs for the management and control of
8 pests having medical and public health importance.
- 9 (7) "Public health pest control" includes primarily, but is not limited to, state, federal, or other
10 governmental employees using or supervising the use of pesticides in public health programs for
11 the management and control of pests having medical and public health importance. "Commercial
12 Public Health pest control" means ~~the category of persons~~ using or supervising the use of
13 pesticides commercially for the management and control of pests having medical and public health
14 importance.
- 15 (8) "Regulatory pest control" ~~includes~~ means ~~the category of~~ state, tribal, federal, or other
16 governmental employees who use or supervise the use of pesticides in government-sponsored
17 programs for the control of regulated pests.
- 18 (9) "Demonstration and research pest control" ~~includes~~ means ~~the category of~~ the following:
19 (a) persons who demonstrate to the public the use and techniques of application of
20 ~~pesticides~~ pesticides, or supervise such demonstration, including extension specialists and
21 county agents; commercial representatives demonstrating pesticide ~~products, products; and~~
22 ~~these~~ persons demonstrating methods used in public programs; and
23 (b) persons who use or supervise the use of pesticides while conducting field research with
24 pesticides. This includes state, federal, commercial, and other persons conducting field
25 research on or utilizing pesticides.
- 26 (10) "Wood treatment" ~~includes pesticide applicators using or supervising the use of restricted use~~
27 ~~pesticides in wood preservation and wood products treatment.~~ "Seed treatment" means ~~the~~
28 ~~category of pesticide applicators~~ using or supervising the use of pesticides on seeds in seed
29 treatment facilities.
- 30 (11) "Soil and growing media fumigation pest control" includes individuals using or supervising the use
31 of any fumigant pesticide injected or applied to soils or growing media. This category excludes
32 fumigation of raw agricultural commodities and all structural fumigation such as:
33 (a) — boxcars;
34 (b) — warehouses;
35 (c) — tractor trailers; and
36 (d) — grain bins.

- 1 "Wood treatment" means ~~the category of individuals~~ applying pesticides to wood products such
2 as crossties, poles, logs, shingles, posts or other wood products that are not part of a structure
3 when ~~treated~~ treated, and are or will be exposed to insects, fungi, marine pests, or weather. This
4 category does not include treatment for the control of termites and other wood destroying
5 organisms in houses or in an area as pretreatment prior to the construction of a structure.
- 6 (12) "Growing media" includes a substance or substances through which roots grow and extract water
7 and nutrients. "Soil and growing media fumigation pest control" means ~~individuals~~ using or
8 supervising the use of any fumigant pesticide injected or applied to soils or growing media.
9 Growing media is defined below in Paragraph (14) of this Rule. This category excludes
10 fumigation of raw agricultural commodities and all structural fumigation such as:
- 11 (a) boxcars;
12 (b) warehouses;
13 (c) tractor trailers; and
14 (d) grain bins.
- 15 (13) "Aerial pest control" means the category of commercial applicators who use or supervise the use
16 of pesticides applied by fixed or rotary wing aircraft.
- 17 (14) "Growing media" means a substance or substances through which roots grow and extract water
18 and nutrients.
- 19 (15) "Noncertified applicator" means any person who does not meet the requirements set forth in
20 Rule 02 NCAC 9L .0503 to be a pesticide applicator, but who has met the requirements set forth
21 in Rule 02 NCAC 09L .0503(d)(2), and who is using a pesticide under the direct supervision
22 of a pesticide applicator in accordance with Rule 02 NCAC 9L .0503(c).
- 23
- 24 History Note: Authority G.S. 143-437; 143-452(d); 143-460(29); 40 C.F.R. 171.3;
25 Eff. February 1, 1976;
26 Amended Eff. June 1, 2016; November 1, 1984; August 1, 1982; October 27, 1979;
27 Readopted Eff. ~~August 1, 2020~~ August 1, 2020;
28 Amended Eff. November 1, 2024.

02 NCAC 09L .1105 is amended with changes as published in 38:23 NCR 1495 as follows:

02 NCAC 09L .1105 APPLICATIONS UNDER SUPERVISION OF CERTIFIED APPLICATOR

~~(a) The certified applicator acting in a supervisory role shall be available to the non-certified applicator in the event he is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator aware of all directions for use and cautions for safe use and application of any restricted use pesticide he or she may be directed to apply.~~

(a) [ADOPTION BY REFERENCE.] The North Carolina Pesticide Board hereby [adopts] [incorporates] by reference, including subsequent [amendments, amendments and editions], Part 171.201 (a) through (d) of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart C—Supervision of Noncertified Applicators." Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, [website, www.gpoaccess.gov/cfr/index.html].

~~(b) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application site or at the loading and mixing site, if different from the application site, the following:~~

- ~~(1) — written or printed directions for applying the restricted use pesticide, which may include pesticide product labeling;~~
- ~~(2) — written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and unreasonable adverse effects on the environment which may include pesticide product labeling; and~~
- ~~(3) — instructions for direct communication with the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.); Such instructions, when followed, shall be considered direct communication with the certified applicator.~~

(b) All certified applicators must adhere to the provisions of recordkeeping as outlined throughout [in the following chapter and subchapters of this section.] Rule 02 NCAC 09L.

- (1) Before allowing a noncertified applicator to make a restricted use pesticide application under their direct supervision, the supervising certified applicator must create or verify the existence of records documenting that each noncertified applicator has the qualifications required in 40 CFR 171.201(c). [For each noncertified applicator, the records must contain the information appropriate to the method of qualification as follows.] For each noncertified applicator, the records must contain the information appropriate to the method of qualification as provided in Parts (b)(1)(A) through (b)(1)(D) of this Rule.

- (A) If the noncertified applicator was trained in accordance with CFR 171.201(c)(1), the record must contain all of the following information: the noncertified applicator's printed name and signature; the date the training requirement in CFR 171.201(c) was met; the name of the person who provided the training; and the title or a description of the training provided.

- (B) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in accordance with CFR 171.201(c)(2), the record must contain all of the information required in 40 CFR 170.501 (d)(1).
- (C) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, as described in CFR 171.201(c)(3), the record must contain the information required by the certifying authority.
- (D) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted, or not certified in the jurisdiction where the use will take place, as described in CFR 171.201(c)(4), the record must include all of the following information: the noncertified applicator's name; the noncertified applicator's certification number; the expiration date of the noncertified applicator's certification; and the certifying authority that issued the certification.
- (2) The certified applicator must create or verify the existence of the record containing the information in Subparagraph (b)(1) of this Rule before allowing the noncertified applicator to use any restricted use pesticides under his or her direct supervision.
- (3) The certified applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (b)(1) of this Rule for three years from the date the noncertified applicator use the pesticide.
- (c) The certified applicator ~~[acting in a supervisory role]~~ providing direct supervision shall be available to the non-certified applicator in the event he or she is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator fully aware of all directions for use and cautions necessary for safe use and application of any restricted use pesticide they may be directed to apply.
- (d) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application ~~[site]~~ site, or at the loading and mixing site, if different from the application site, the following:
- (1) detailed written or printed directions for applying the restricted use pesticide (pesticide product label ~~[may]~~ will suffice);
- (2) detailed written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and/or unreasonable adverse effects on the environment (pesticide product label ~~[may]~~ will suffice); and
- (3) detailed instructions for contacting the certified applicator under whose supervision the non-certified applicator is working ~~[(i.e.,)]~~ (for example, name, location, telephone number, radio contact, etc.), and such instructions, when followed, shall result in direct communication with the certified applicator.

*History Note: Authority G.S. 143-440;
Eff. December 1, 1976;*

1 *Amended Eff. February 5, 1978;*
2 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*
3 *Amended Eff. November 1, 2024.*

02 NCAC 09L .1107 is amended with changes as published in 38:23 NCR 1496 as follows:

02 NCAC 09L .1107 AGE LIMITATIONS

Individuals who wish to be certified as private pesticide applicators shall be ~~at least 18~~ years old prior to participating in a certification option or being issued a single purchase permit under the emergency certification procedure; however, in hardship cases individuals below the age of 16 may be licensed by the Board on an individual basis when they demonstrate to the Board by written, or written and oral examination their qualifications as a private pesticide applicator. ~~[procedure.]~~ procedure, as set forth in Rule 02 NCAC 09L .1104.

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

Eff. December 1, 1976;

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .01305 is amended with changes as published in 38:23 NCR 1496-1497 as follows:

02 NCAC 09L .1305 RECORD KEEPING REQUIREMENTS

All licensed pesticide dealers, as defined in G.S. 143-460, shall keep records of all sales of restricted use pesticides showing the following:

- (1) date of sale;
- (2) initials of sales clerk;
- (3) name of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this ~~Section~~Section, or ~~[noncertified]~~noncertified employees as set out in Rule .1303 of this Section;
- (4) certification or license number of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this Section;
- (5) certification or license expiration date as shown on the certified or licensed applicator's certification card;
- ~~(6) product brand name;~~
- ~~(6) categories held by certified or licensed applicator;~~
- ~~(7) EPA registration number;~~
- ~~(7) product brand name;~~
- ~~(8) number of individual containers;~~
- ~~(8) EPA registration number;~~
- ~~(9) size of individual containers; and~~
- ~~(9) number of individual containers;~~
- ~~(10) total quantity sold.~~
- ~~(10) size of individual containers; and~~
- ~~(11) total quantity sold.~~

History Note: *Authority G.S. 143-437; 143-440; 143-466;*
Temporary Adoption Eff. November 1, 2001;
Eff. August 1, 2002;
Readopted Eff. ~~August 1, 2020~~August 1, 2020;
Amended Eff. November 1, 2024.

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Wednesday, October 16, 2024 3:45 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mclennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Understood. I will get those changes turned around by the end of the week.

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
1002 Mail Service Center | Raleigh, NC 27699
Office: (984) 236-4509 (new office)
Cell: (919) 745-9356
anna.hayworth@ncagr.gov

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Wednesday, October 16, 2024 3:10 PM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Subject: RE: NC Pesticide Board Rules-October 2024

Good afternoon,

Below are some minor changes that I failed to request earlier in the process. Please make the revisions and reply with the final version of just these rules.

.0503:

- On pg. 2, (6), lines 12 & 13, please don't use "e.g.", per the OAH Style Guide.

.0504:

- On pg. 3, line 9, please replace "Rule 02 NCAC 09L .0504(14)" with "Paragraph (14) of this Rule".
- In (15), line 21, please remove the space between "(2)" and the comma in ".0503(d)(2) ,"

.1105:

- On pg. 2, line 32, please don't use "i.e." or "etc.", per the OAH Style Guide.

.1107:

- In line 8, please add "Rule" before the cited Rule.

.1305:

- In (3), line 9, it appears there's a comma after "noncertified". Please move the comma after "employees".

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024
Attachments: 02 NCAC 09L .0503.docx; 02 NCAC 09L .0504.docx; 02 NCAC 09L .0505.docx; 02 NCAC 09L .0506.docx; 02 NCAC 09L .0507.docx; 02 NCAC 09L .0512.docx; 02 NCAC 09L .0522.docx; 02 NCAC 09L .0531.docx; 02 NCAC 09L .1002.docx; 02 NCAC 09L .1003.docx; 02 NCAC 09L .1102.docx; 02 NCAC 09L .1103.docx; 02 NCAC 09L .1105.docx; 02 NCAC 09L .1107.docx; 02 NCAC 09L .1108.docx; 02 NCAC 09L .1109.docx; 02 NCAC 09L .1303.docx; 02 NCAC 09L .1305.docx; 02 NCAC 09L .1402.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Sent: Wednesday, October 9, 2024 6:22 PM

To: Rules, Oah <oah.rules@oah.nc.gov>

Cc: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Subject: FW: NC Pesticide Board Rules-October 2024

Good afternoon,

See attached final rules for the NC Pesticide Board.

Please let me know if you have any questions, or need anything additional.

Anna R. Hayworth | Agricultural Programs Specialist

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NC Department of Agriculture and Consumer Services

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02 NCAC 09L .0503 is amended with changes as published in 38:23 NCR 1483-1486 as follows:

02 NCAC 09L .0503 PESTICIDE APPLICATORS

(a) ~~The Commissioner shall require the licensing of at~~At least one person at each business location shall hold a pesticide applicator license, and who shall be responsible for the application of pesticides for routine pest control situations.

(b) The person licensed as the pesticide applicator shall supervise and guide ~~the activities of~~ all personnel applying pesticides from the business location of the licensee.

(c) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~incorporates by ~~reference~~reference, for all Pesticide Applicators, Part 171.201 "Supervision of Noncertified Applicators", of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B –Certification Requirements for Applicators of Restricted Use Pesticides.", including subsequent ~~amendments,~~amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, ~~website, www.gpoaccess.gov/cfr/index.html~~.

(d) The requirements for direct supervision of noncertified applicators by pesticide applicators are as follows:

(1) The ~~requirements for the~~ supervising pesticide ~~applicator:~~applicator shall:

(A) ~~the supervising pesticide applicator must~~ have ~~a practical~~ knowledge of applicable federal, ~~state~~state, and tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of said pesticide by noncertified applicators; and

(B) ~~the supervising pesticide applicator must~~ be certified in each ~~category~~category, as set forth in Rule 02 NCAC [09L .0505]09L .0505, applicable to the supervised pesticide use.

~~(2) (C)~~ Requirements for the noncertified applicator include that the supervising pesticide applicator must ensure that each noncertified applicator using any pesticide under his or her direct supervision meets all of the following requirements before using any ~~pesticide:~~pesticide:

~~(A)~~ (1) ~~The~~the non-certified applicator has satisfied one of the qualification requirements under Paragraph (c) of this ~~Rule;~~ Rule; ~~including the following:~~

(2) the noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides;

(3) ~~and~~the noncertified applicator has met the minimum age required to use pesticides under the supervision of a pesticide applicator, as well as that a noncertified applicator must be at least 18 years ~~old;~~ old;

~~(3) Use specific conditions that must be met for a noncertified applicator to use any pesticide. The supervising pesticide applicator must ensure that all the following requirements are met before allowing a noncertified applicator to use any pesticide under his or her direct supervision.~~

- 1 ~~(A)~~ (4) ~~The supervising pesticide applicator must~~ ensure that the noncertified applicator
2 has access to the applicable product labeling at all times during its ~~use.~~ use;
- 3 ~~(B)~~ (5) ~~Where~~ where the labeling of a pesticide product requires that personal protective
4 equipment be worn for mixing, loading, application, or any other use activities, the
5 supervising pesticide applicator must ensure that any noncertified applicator has clean,
6 labeling-required personal protective equipment in proper operating condition and that the
7 personal protective equipment is worn and used correctly for its intended
8 ~~purpose.~~ purpose;
- 9 ~~(C)~~ (6) ~~The supervising pesticide applicator must~~ provide to each noncertified
10 applicator instructions specific to the site and pesticide used, and these instructions must
11 include labeling directions, precautions, and requirements applicable to the specific use
12 and site, and how the characteristics of the use site (e.g., surface and ground water,
13 endangered species, local population) and the conditions of application (e.g., equipment,
14 method of application, formulation) might increase or decrease the risk of adverse effects,
15 ~~as well as that~~ and the supervising pesticide applicator must provide this information in a
16 manner that the noncertified applicator can ~~understand.~~ understand;
- 17 ~~(D)~~ (7) ~~The supervising pesticide applicator must~~ ensure that before each day of use,
18 equipment used for mixing, loading, transferring, or applying pesticides is in proper
19 operating condition as intended by the manufacturer and can be used without risk of
20 reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the
21 ~~environment.~~ environment;
- 22 ~~(E)~~ (8) ~~The supervising pesticide applicator must~~ ensure that a means to immediately
23 communicate with the supervising pesticide applicator is available to each noncertified
24 applicator using any pesticide under his or her direct ~~supervision.~~ supervision;
- 25 ~~(F)~~ (9) ~~The supervising pesticide applicator must~~ be physically present at the site of the
26 use being supervised when required by the product ~~labeling.~~ labeling; and
- 27 ~~(G)~~ (10) ~~The supervising pesticide applicator must~~ create and verify the existence of the
28 records required by Paragraph (g) of this Rule of the qualification method being
29 ~~completed/verified.~~ verified;

30 (e) Before any noncertified applicator uses any pesticide under the direct supervision of a pesticide applicator, the
31 supervising pesticide applicator must ensure that the noncertified applicator has met at least one of the following
32 qualifications; requirements in Paragraph (e):

- 33 (1) the noncertified applicator has been trained in accordance with Paragraph (f) of this Rule within the
34 last 12 months;
- 35 (2) the noncertified applicator has met training requirements for an agricultural handler under 40 CFR
36 170.501 within the last 12 months;

1 (3) the noncertified applicator has met the requirements established by a certifying authority that meet
2 or exceed the standards in Subparagraph (f)(3) of this Rule; or

3 (4) the noncertified applicator is currently a certified applicator but is not certified to perform the type
4 of application being conducted or is not certified in North Carolina.

5 (f) Guidelines for the noncertified applicator training program ~~[and their subsections]~~ shall be ~~[detailed]~~ as follows.

6 (1) General noncertified applicator training must be presented to noncertified applicators orally from
7 written materials or audio visually. The information must be presented in a manner that the
8 noncertified applicators can understand. The person conducting the training must be present during
9 the entire training program and must respond to the noncertified applicators' questions.

10 (2) The person who conducts the training must meet at least one of the following criteria:

11 (A) be currently certified as a pesticide applicator;

12 (B) be currently designated as a trainer of certified applicators or pesticide handlers by EPA,
13 the certifying authority, or a state, tribal, or federal agency having jurisdiction; or

14 (C) have completed an EPA-approved pesticide safety train-the-trainer program for trainers of
15 handlers under 40 CFR part 170.

16 (3) The noncertified applicator training materials must include information on how the noncertified
17 applicators can protect themselves, other people, and the ~~[environment]~~ environment, before, during
18 and after ~~[making]~~ a pesticide application. The noncertified applicator training materials must
19 include, at a minimum, the following:

20 (A) potential hazards from toxicity and exposure that pesticides present to noncertified
21 applicators and their families, including acute and chronic effects, delayed effects, and
22 sensitization;

23 (B) routes through which pesticides can enter the body;

24 (C) signs and symptoms of common types of pesticide poisonings;

25 (D) emergency first aid for pesticide injuries or poisonings;

26 (E) routine and emergency decontamination procedures, including emergency eye flushing
27 ~~[techniques,]~~ techniques; ~~[including that noncertified applicators must be instructed]~~ that if
28 pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the
29 nearest appropriate location with clean ~~[water,]~~ water; ~~[and that noncertified applicators~~
30 must also be] and instructed to wash or shower with soap and water, shampoo hair, and
31 change into clean clothes as soon as possible;

32 (F) how and when to obtain emergency medical care;

33 (G) after working with pesticides, to wash hands before eating, drinking, using chewing gum
34 or tobacco, or using the toilet;

35 (H) wash or shower with soap and water, shampoo hair and change into clean clothes as soon
36 as possible after working with pesticides;

37 (I) potential hazards from pesticide residues on clothing;

- (J) wash clothes worn while working with pesticides before wearing them again and wash them separately from other clothes;
- (K) do not take pesticides or pesticide containers used at work to your home;
- (L) potential hazards to children and pregnant women from pesticide exposure;
- (M) remove work boots or shoes worn during a pesticide application before entering your home, and remove work clothes worn during a pesticide application and wash or shower before physical contact with children or family members;
- (N) how to report suspected pesticide use violations to the appropriate state or tribal agency responsible for pesticide enforcement;
- (O) the format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the licensed applicator to be physically present during the use of the [pesticide] pesticide, and information on personal protective equipment;
- (P) the need for, and appropriate use and removal of, personal protective equipment;
- (Q) how to recognize, prevent, and provide first aid treatment for heat-related [illness; illnesses];
- (R) safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
- (S) environmental concerns such as drift, runoff, and wildlife hazards;
- (T) restricted use pesticides may be used only by a pesticide applicator or by a noncertified applicator working under the direct supervision of a pesticide applicator;
- (U) the supervising pesticide applicator must be present at the site only when required by the product labeling;
- (V) the supervising pesticide applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used, and that these instructions must include labeling directions, precautions, and requirements applicable to the specific use and [site] site, and how the characteristics of the use site [e.g.,] (for example, surface and ground water, endangered species, local population, and risks) and the conditions of application [e.g.,] (for example, equipment, method of application, formulation, and risk of adverse effects), [and these instructions] must be provided by the supervising pesticide applicator in a manner the noncertified applicator can understand;
- (W) the supervising pesticide applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use;
- (X) the supervising pesticide applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling

1 required personal protective equipment in proper operating ~~condition~~ condition, and that
2 the personal protective equipment is worn and used correctly for its intended purpose;

3 (Y) the supervising pesticide applicator's responsibility to ensure that before each day of use,
4 equipment used for mixing, loading, transferring, or applying pesticides is in proper
5 operating condition as intended by the manufacturer, and can be used without risk of
6 reasonably foreseeable adverse effects to the noncertified applicator, other
7 ~~persons~~ persons, or the environment; and

8 (Z) the supervising pesticide applicator's responsibility to ensure that a means to immediately
9 communicate with the supervising pesticide applicator is available to each noncertified
10 applicator using any pesticide under his or her direct supervision.

11 (g) All applicators must adhere to the provisions of recordkeeping ~~as outlined in the following section and~~
12 ~~subsection;~~ as follows:

13 (1) Before allowing a noncertified applicator to make any pesticide application under their direct
14 supervision, the supervising pesticide applicator must create or verify the existence of records
15 documenting that each noncertified applicator has the qualifications required in
16 ~~paragraph~~ Paragraph (e) of this section. For each noncertified applicator, the records must
17 contain the information ~~appropriate~~ corresponding to the method of qualification.

18 (A) If the noncertified applicator was trained in accordance with ~~Paragraph (e)~~
19 ~~(1)~~ Subparagraph (e)(1) of this Rule, the record must contain all of the following
20 information: the noncertified applicator's printed name and signature; the date
21 the training requirement in Paragraph (d) of this Rule was met; the name of the
22 person who provided the training; and the title or a description of the training
23 provided.

24 (B) If the noncertified applicator was trained as an agricultural handler under ~~40 CFR~~
25 ~~170.501~~ 40 CFR 170.501, in accordance with Subparagraph (e)(2) of this Rule,
26 the record must contain all of the information required ~~at~~ in 40 CFR 170.501
27 (d)(1).

28 (C) If the noncertified applicator qualified by satisfying the requirements established
29 by the certifying authority, as described in Subparagraph (e)(3) of this Rule, the
30 record must contain the information required by the certifying authority.

31 (D) If the noncertified applicator is an otherwise certified applicator who is not
32 certified to perform the type of application being ~~conducted~~ conducted, or not
33 certified in the jurisdiction where the use will take place, as described in
34 Subparagraph (e)(4) of this Rule, the record must include all of the following
35 information: the noncertified applicator's name; the noncertified applicator's
36 certification number; the expiration date of the noncertified applicator's
37 certification; and the certifying authority that issued the certification.

1 (2) The supervising pesticide applicator must create or verify the existence of the record containing the
2 information in Subparagraph (g)(1) of this Rule before allowing the noncertified applicator to use
3 any pesticides under his or her direct supervision.

4 (h) The pesticide applicator supervising any noncertified applicator must have access to records documenting the
5 information required in Subparagraph (g)(1) of this Rule at the supervising pesticide applicator's principal place of
6 business for three years from the date the noncertified applicator uses the pesticide.

7
8 History Note: Authority G.S. 143-452; 143-453; 143-458; ~~143-460(30); 143-460(19)(20); 143-460(29);~~
9 Eff. February 1, 1976;
10 Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;
11 Amended Eff. November 1, 2024.
12

02 NCAC 09L .0504 is amended with changes as published in 38:23 NCR 1486-1488 as follows:

02 NCAC 09L .0504 DEFINITIONS

The following definitions apply to ~~Rules .0505, .0506, and .0507 of this Section:~~pesticide applicators:

- (1) ~~"Agricultural pest control":~~"Agricultural pest control" and its subcategories shall apply to the following:
 - (a) ~~Plant. Includes~~Crop pest control ~~[is the category applied to]~~means pesticide applicators using or supervising the use of pesticides in the production of agricultural crops, including 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.~~Livestock pest control ~~[is the category applied to]~~means. ~~Includes~~ pesticide applicators using or supervising the use of pesticides on animals, ~~including, but not limited to, the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock,~~ and to places where animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides are included in this category. The following subcategories are defined as follows:
 - (i) livestock: ~~[is the category applied to]~~means the application of pesticides to domesticated animals being raised as an agricultural commodity or for the purpose of producing an ag commodity;
 - (ii) poultry: ~~[is the category applied to]~~means the application of pesticides to poultry domestic fowl ~~[or poultry operations;]~~ and to the areas in which they are confined; and
 - (iii) small animal: ~~[is the category applied to]~~means the application of pesticides to pets or the areas where they are confined.
- (2) "Forest pest control" ~~includes~~means ~~[the category of]~~pesticide applicators using or supervising the use of pesticides in forests, forest nurseries, and forest ~~seed producing areas.~~seed production.
- (3) "Ornamental and turf pest control" ~~includes~~means ~~[the category of]~~pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental ~~trees, shrubs, flowers, and turf plants and turf.~~
- (4) ~~"Seed treatment" includes pesticide applicators using or supervising the use of pesticides on seeds.~~
"Aquatic pest control" means ~~[the category of 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 Items (6) and (7) of this Rule.
- (5) ~~"Aquatic pest control" includes pesticide applicators using or supervising the use of any pesticide intended to be applied to standing or running water, excluding applicators engaged in public health related activities included in Item (7) of this Rule.~~ "Right-of-way pest control" means ~~[the~~

- 1 ~~category of pesticide applicators~~ using or supervising the use of pesticides in the maintenance of
2 public roads, electric powerlines, pipelines, railway rights-of-way, or other similar areas.
- 3 (6) "Right of way pest control" includes pesticide applicators using or supervising the use of
4 pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights of-
5 way, or other similar areas. "Public health pest control" means ~~the category of~~ state, tribal,
6 federal, or other governmental employees and contractors using or supervising the use of
7 pesticides in government sponsored public health programs for the management and control of
8 pests having medical and public health importance.
- 9 (7) "Public health pest control" includes primarily, but is not limited to, state, federal, or other
10 governmental employees using or supervising the use of pesticides in public health programs for
11 the management and control of pests having medical and public health importance. "Commercial
12 Public Health pest control" means ~~the category of persons~~ using or supervising the use of
13 pesticides commercially for the management and control of pests having medical and public health
14 importance.
- 15 (8) "Regulatory pest control" ~~includes~~ means ~~the category of~~ state, tribal, federal, or other
16 governmental employees who use or supervise the use of pesticides in government-sponsored
17 programs for the control of regulated pests.
- 18 (9) "Demonstration and research pest control" ~~includes~~ means ~~the category of~~ the following:
19 (a) persons who demonstrate to the public the use and techniques of application of
20 ~~pesticides~~ pesticides, or supervise such demonstration, including extension specialists and
21 county agents; commercial representatives demonstrating pesticide ~~products, products; and~~
22 ~~these~~ persons demonstrating methods used in public programs; and
23 (b) persons who use or supervise the use of pesticides while conducting field research with
24 pesticides. This includes state, federal, commercial, and other persons conducting field
25 research on or utilizing pesticides.
- 26 (10) "Wood treatment" ~~includes pesticide applicators using or supervising the use of restricted use~~
27 ~~pesticides in wood preservation and wood products treatment.~~ "Seed treatment" means ~~the~~
28 ~~category of pesticide applicators~~ using or supervising the use of pesticides on seeds in seed
29 treatment facilities.
- 30 (11) "Soil and growing media fumigation pest control" includes individuals using or supervising the use
31 of any fumigant pesticide injected or applied to soils or growing media. This category excludes
32 fumigation of raw agricultural commodities and all structural fumigation such as:
33 (a) — boxcars;
34 (b) — warehouses;
35 (c) — tractor trailers; and
36 (d) — grain bins.

- 1 "Wood treatment" means ~~the category of individuals~~ applying pesticides to wood products such
2 as crossties, poles, logs, shingles, posts or other wood products that are not part of a structure
3 when ~~treated~~ treated, and are or will be exposed to insects, fungi, marine pests, or weather. This
4 category does not include treatment for the control of termites and other wood destroying
5 organisms in houses or in an area as pretreatment prior to the construction of a structure.
- 6 (12) "Growing media" includes a substance or substances through which roots grow and extract water
7 and nutrients. "Soil and growing media fumigation pest control" means ~~individuals~~ using or
8 supervising the use of any fumigant pesticide injected or applied to soils or growing media.
9 Growing media is defined below in Rule 02 NCAC 09L .0504(14). This category excludes
10 fumigation of raw agricultural commodities and all structural fumigation such as:
- 11 (a) boxcars;
12 (b) warehouses;
13 (c) tractor trailers; and
14 (d) grain bins.
- 15 (13) "Aerial pest control" means the category of commercial applicators who use or supervise the use
16 of pesticides applied by fixed or rotary wing aircraft.
- 17 (14) "Growing media" means a substance or substances through which roots grow and extract water
18 and nutrients.
- 19 (15) "Noncertified applicator" means any person who does not meet the requirements set forth in
20 Rule 02 NCAC 9L .0503 to be a pesticide applicator, but who has met the requirements set forth
21 in Rule 02 NCAC 09L .0503(d)(2) , and who is using a pesticide under the direct supervision of
22 a pesticide applicator in accordance with Rule 02 NCAC 9L .0503(c).

23

24 History Note: Authority G.S. 143-437; 143-452(d); 143-460(29); 40 C.F.R. 171.3;
25 Eff. February 1, 1976;
26 Amended Eff. June 1, 2016; November 1, 1984; August 1, 1982; October 27, 1979;
27 Readopted Eff. ~~August 1, 2020~~ August 1, 2020;
28 Amended Eff. November 1, 2024.

02 NCAC 09L .0505 is amended with changes as published in 38:23 NCR 1488-1489 as follows:

02 NCAC 09L .0505 CLASSIFICATIONS

(a) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~ incorporates by ~~reference~~ reference, for all Pesticide Applicators, Part 171.101 "Commercial applicator certification categories" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B—Certification Requirements for Applicators of Restricted Use Pesticides," including subsequent ~~amendments~~ amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, ~~website, www.gpoaccess.gov/cfr/index.html~~. The following classifications shall apply in North Carolina:

(1) neither the sodium cyanide predator control nor the sodium fluoroacetate predator control categories shall be created in North Carolina;

(2) additional classifications and their respective ~~subclassifications~~ subclassifications, not established by the federal guidelines referenced in Paragraph (a) of this ~~Rule~~ Rule, that shall be created in North ~~Carolina~~ Carolina, are as follows:

(A) commercial public health pest control;

(B) wood treatment;

(C) livestock pest control, which shall include the subsections of livestock; poultry; and small animals.

(b) The following classifications and subclassifications shall apply to the licensing of pesticide applicators:

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

~~(A)(a) agricultural pest control;~~ agricultural pest control, including the subsections of crop pest control and livestock pest control (including ~~further~~ subcategories of livestock, poultry, and small animals);

~~(B)(b) forest pest control;~~

~~(C)(c) ornamental and turf pest control;~~

~~(D)(d) aquatic pest control;~~

~~(E)(e) right-of-way pest control;~~

~~(F)(f) public health pest control;~~

~~(g) regulatory pest control;~~

(G) commercial public health pest control;

~~(h) demonstration and research pest control;~~

~~(i) agricultural pest control;~~

(A) 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;~~
(H) ~~regulatory pest control;~~
(i) ~~seed treatment;~~
(I) ~~demonstration and research pest control, with the subsections of agricultural crop pest control; agricultural livestock pest control (including further subcategories of livestock, poultry, and small animals); forest pest control; ornamental and turf pest control; aquatic pest control; right-of-way pest control; commercial public health pest control; public health pest control; regulatory pest control; wood treatment; spoil and growing media fumigation pest control; aerial pest control;~~
(j) ~~wood treatment; and~~
(J) ~~seed treatment;~~
(k) ~~soil and growing media fumigation pest control;~~
(K) ~~wood treatment;~~
(L) ~~soil and growing media fumigation pest control; and~~
(M) ~~aerial pest control;~~
(2) pesticide applicators and public operators utilizing aerial equipment:
(A)(a) ~~agricultural pest control: plant; crop pest control;~~
(B)(b) ~~forest pest control;~~
(C)(c) ~~ornamental and turf pest control;~~
(D)(d) ~~aquatic pest control;~~
(E)(e) ~~right-of-way pest control;~~
(F)(f) ~~public health pest control;~~
(g) ~~regulatory pest control; and~~
(G) ~~commercial public health pest control;~~
(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.~~

(H) regulatory pest control;

(I) demonstration and research pest control, which shall include the subsections of agricultural pest control; crop pest control; forest pest control; ornamental and turf pest control; aquatic pest control; right-of-way pest control; regulatory pest control; public health pest control; and aerial pest control; and

(J) aerial pest control.

*History Note: Authority G.S. 143-437; 143-452(d); 143-460(29); 143-460(33);
Eff. February 1, 1976;
Amended Eff. June 1, 2016; November 1, 1984; August 26, 1976;
Readopted Eff. August 1, 2020; August 1, 2020;
Amended Eff. November 1, 2024.*

02 NCAC 09L .0506 is amended with changes as published in 38:23 NCR 1489-1490 as follows:

02 NCAC 09L .0506 GOVERNMENTAL WORKERS

Persons in job classifications in the government unit or agencies listed below are required to be licensed as public operators:

- (1) North Carolina Department of Transportation, division of highway (14 divisions);
- (2) United States Department of Agriculture, Animal and Plant Health Inspection Service:
 - (a) staff specialist for witchweed control,
 - (b) assistant district director,
 - (c) work unit supervisors,
 - (d) designated inspectors who supervise pesticide applications,
 - (e) witchweed methods development laboratory supervisor,
 - (f) witchweed methods development assistant laboratory supervisor;
- (3) North Carolina Department of Agriculture and Consumer Services plant industry division:
 - (a) plant pest administrator,
 - (b) entomological program specialist,
 - (c) plant pathologist,
 - (d) greenhouse manager,
 - (e) area supervisors,
 - (f) pest control specialists,
 - (g) all plant pest inspectors who have supervision of pesticide applications as part of their job assignments;
- (4) North Carolina Department of ~~Environment, Health, and Natural Resources, Forest Resources Division, Agriculture and Consumer Services, North Carolina Forest~~ [service] Service staff, as outlined in their job descriptions: pest control unit:
 - (a) ~~pest control foresters, foresters and forest technicians tasked with forest management duties such as writing, reviewing and approving herbicide application recommendations,~~ recommendations;
 - (b) ~~pest control staff forester, forest health program head and staff;~~
 - (c) ~~nursery unit superintendents, nursery program managers, technicians, and equipment operators; and~~
 - (d) ~~tree improvement unit technicians, tree improvement program supervisors, technicians, and equipment operators.~~
 - (e) ~~forestation unit rangers;~~
- (5) ~~North Carolina Department of Environment, Health, and Natural Resources, Public Health Pest Management Section, Division of Environmental Health one medical entomologist;~~
- (5) [Count] County boards of health and municipal governments:

- 1 (a) at least one county environmental health specialist must be licensed where the health
2 department employees apply all the pesticides or supervise, on a weekly or more frequent
3 basis, the activities of all municipal employees applying [pesticides, at least one county
4 environmental health specialist must be licensed; pesticides;
- 5 (b) one county environmental health specialist and one municipal employee for each
6 municipality must be licensed in counties where the health department personnel apply
7 pesticides but have no direct control over municipal employees who apply pesticides; and
- 8 (c) one licensed supervisor for each municipality, sanitary [district]district, or mosquito
9 control district must be licensed in counties where only municipal, sanitary
10 [district]district, or mosquito control district personnel apply pesticides.
- 11 (6) ~~County boards of health and municipal governments:~~
- 12 (a) ~~In counties where the health department employees apply all the pesticides or supervise,~~
13 ~~on a weekly or more frequent basis, the activities of all municipal employees applying~~
14 ~~pesticides, at least one county sanitarian must be licensed.~~
- 15 (b) ~~One county sanitarian and one municipal employee for each municipality must be licensed~~
16 ~~in counties where the health department personnel apply pesticides but have no direct~~
17 ~~control over municipal employees who apply pesticides.~~
- 18 (c) ~~One licensed supervisor for each municipality, sanitary district or mosquito control district~~
19 ~~must be licensed in counties where only municipal, sanitary district or mosquito control~~
20 ~~district personnel apply pesticides.~~

21

22 *History Note:* Authority G.S. 143-437; 143-453(c)(1); 143-460(33);
23 Eff. February 1, 1976;
24 Amended Eff. May 1, 1991; August 1, 1982; January 27, 1978;
25 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November
26 22, 2018; November 22, 2018;
27 Amended Eff. November 1, 2024.

02 NCAC 09L .0507 is amended with changes as published in 38:23 NCR 1490 as follows:

02 NCAC 09L .0507 CATEGORIES OF CONSULTANTS

Each person acting as a pest control consultant as defined in G.S. 143-460(27) shall be licensed. The categories requiring a license ~~may~~shall include the following:

- (1) agricultural pest control:
 - (a) ~~plant; and~~crop pest control;
 - (b) ~~animal;~~livestock pest control;
- (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. ~~143-437;~~ 143-455; 143-460(27);

Eff. February 1, 1976;

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

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~November~~

~~22, 2018; November 22, 2018;~~

Amended Eff. November 1, 2024.

02 NCAC 09L .0512 is amended with changes as published in 38:23 NCR 1490 as follows:

02 NCAC 09L .0512 AGE REQUIREMENT

~~Each applicant for a license must be 18 years old by January 1 of the calendar year for which he has submitted an application for a license provided, however, in hardship cases persons below the age of 18 may be licensed by the Board on an individual basis when they demonstrate to the Board by written, or written and oral, examination their qualifications to sell or apply pesticides. A pesticide applicator must be at least 18 years old.~~

History Note: Authority G.S. 143-437; 143-449(b); 143-452(f); 143-453(b); 143-455(e);

Eff. February 1, 1976;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 22, 2018; November 22, 2018;

Amended Eff. November 1, 2024.

02 NCAC 09L .0522 is amended with changes as published in 38:23 NCR 1490-1491 as follows:

02 NCAC 09L .0522 RECERTIFICATION OPTIONS

(a) 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" is defined as one hour of approved continuing certification training. Continuing certification training shall be approved by the Board based upon the USU.S. Environmental Protection Agency "Standards for certification of commercial applicators," as contained in 40 CFR 171.103, and "Standards for recertification of certified applicators," as contained in 40 CFR 171.107. 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, Board, as set forth in 40 CFR 171.103 and 40 CFR 171.107. Continuing certification requirements for each pest control category are as follows:

- | | |
|--|-------------------------------|
| (1) — aquatic | 6 credits per 5-year period |
| (1) — agricultural pest control – crop pest control | 10 credits per 5-year period; |
| (2) — public health | 6 credits per 5-year period |
| (2) — agricultural pest control – livestock pest control | 6 credits per 5-year period; |
| (3) — forest | 6 credits per 5-year period |
| (3) — forest pest control | 6 credits per 5-year period; |
| (4) — right of way | 4 credits per 5-year period |
| (4) — ornamental and turf pest control | 10 credits per 5-year period; |
| (5) — regulatory | 6 credits per 5-year period |
| (5) — aquatic pest control | 6 credits per 5-year period; |
| (6) — ag pest animal | 6 credits per 5-year period |
| (6) — right of way pest control | 4 credits per 5-year period; |
| (7) — ornamental and turf | 10 credits per 5-year period |
| (7) — public health pest control | 6 credits per 5-year period; |
| (8) — seed treatment | 3 credits per 5-year period |
| (8) — commercial public health pest control | 6 credits per 5-year period; |
| (9) — ag pest plant | 10 credits per 5-year period |
| (9) — regulatory pest control | 6 credits per 5-year period; |
| (10) — demonstration and research | 10 credits per 5-year period |
| (10) — demonstration and research pest control | 10 credits per 5-year period; |
- The continuing certification credits required for demonstration and research may shall consist of any combination of credits divided between training in the primary categoriescategories, set forth in Subparagraph (a)(1) through (a)(9) and (a)(11) through (a)(14) of this RuleRule, and training in demonstration and research.
- | | |
|---------------|-----------------------------|
| (11) — aerial | 4 credits per 2-year period |
|---------------|-----------------------------|

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

~~(11) seed treatment 3 credits per 5-year period;~~

~~(12) wood treatment 4 credits per 5-year period~~

~~(12) wood treatment 4 credits per 5-year period;~~

~~(13) soil and growing media fumigation 3 credits per 5-year period~~

~~(13) soil and growing media fumigation 3 credits per 5-year period; and~~

~~(14) aerial 4 credits per 5-year period.~~

The Continuing Certification Credits required for aerial applicators shall include one credit obtained through training aerial methods. The Continuing Certification Credits established for each ground application pest control category shall be obtained in at least two years of the five-year period.

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

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

Eff. September 10, 1980;

Amended Eff. June 1, 2016; November 1, 1984;

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .0531 is adopted as published with changes in 38:23 NCR 1491-1492 as follows:

02 NCAC 09L .0531 PESTICIDE LICENSE EXAMINATION REQUIREMENT

(a) ~~[ADOPTION BY REFERENCE:]~~ The North Carolina Pesticide Board, hereby ~~[adopts]~~ incorporates by reference for all Pesticide Applicators, Part 171.103 (a) through (e) “Standards for certification of commercial applicators” of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B–Certification Requirements for Applicators of Restricted Use Pesticides" including subsequent ~~[amendments.]~~ amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>. ~~[website, www.gpoaccess.gov/cfr/index.html.]~~

(b) Core ~~[requirements]~~ requirements, as described in 40 CFR ~~[171.103]~~ 171.103, must be met for all categories and subcategories.

(c) The competency standards for additional categories established in North Carolina are as follows:

(1) commercial public health pest control: applicators must demonstrate practical knowledge of pests that are important vectors of disease, including recognizing the pests and signs of their presence, their habitats, their life cycles, ~~[biology]~~ biology, and behavior as it may be relevant to problem identification and ~~[control, as well as]~~ control; the required knowledge on how to minimize damage to and contamination of areas ~~[treated.]~~ treated; acute and chronic exposure of people and ~~[pets,]~~ pets; and non-target exposures;

(2) wood treatment: applicators must demonstrate a practical knowledge of the different types of wood, tree ~~[anatomy and physiology]~~ anatomy, physiology, and be able to identify what treatment factors are specific to ~~[each, as well as]~~ each; common disease and insect problems and factors, such as moisture, that must be considered prior to beginning a ~~[treatment, and]~~ treatment; knowledge of the different types of wood preservatives, ~~[as well as]~~ and the specific PPE requirements and cautions associated with ~~[each,]~~ each; and proper disposal of treated and unused wood;

(3) livestock pest control and it’s subcategories are established as follows:

(A) livestock: applicators must demonstrate practical knowledge of the various types of livestock, the area where they’re ~~[housed]~~ housed, and their associated ~~[pests,]~~ pests; ~~[as well as the required knowledge which shall include]~~ specific pesticide toxicity and residue ~~[potential,]~~ potential; and the hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment;

(B) poultry: applicators must demonstrate practical knowledge of poultry, typical poultry operations and their associated ~~[pests,]~~ pests; ~~[as well as the required knowledge of]~~ specific pesticide toxicity and residue potential, and the hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment; and

1 (C) small animal: applicators must demonstrate practical knowledge of small companion
2 animals and their associated [pests, pests; as well as the required knowledge of] specific
3 pesticide toxicity and residue potential, and the hazards associated with such factors as
4 formulation, application techniques, age of animals, stress, and extent of treatment.
5

6 *History Note:* Authority G.S. 143-437; 143-449(b); 143-4523(b); 143-452(f); 143-453(b); 143-455; 143-460;
7 Adopted Eff. November 1, 2024.

02 NCAC 09L .1002 is amended with changes as published in 38:23 NCR 1492 as follows:

02 NCAC 09L .1002 GENERAL REQUIREMENTS

(a) All agricultural aircraft operations in North Carolina shall comply with the Federal Occupational Safety and Health Act of 1971 (OSHA), Title 29 U.S.C. Chapter ~~15,15~~; the North Carolina Occupational Safety and Health Law, G.S. Chapter 95 Article 16, all and rules and regulations promulgated ~~thereunderthereunder~~; and the Federal Aviation ~~RegulationsRegulations~~, 14 CFR Part 137. In any case of conflict, a provision of the aforementioned authorities takes precedence over any of these Rules.rules.

(b) Each aerial application business shall have a licensed contractor. ~~The contractor shall be responsible for the compliance of the business with the North Carolina Pesticide Law of 1971 and all rules promulgated thereunder[thereunder,] except where the responsibility is designated to another person(s) this Section.~~

(c) All agricultural aircraft operations (pilot or contractor) shall keep a written record to be completed within 72 hours after each application, unless requested sooner by an employee of the Pesticide Section for the purposes of a pesticide incident investigation. The record shall showcontain the following:

- (1) name of contractor;
- (2) name and address of the person for whom the pesticide was applied;
- (3) identification of farm or land sites treated with pesticide(s);
- (4) name of crop which was treated;
- (5) total number of acres treated;
- (6) the year, month, date, and the specific time of day when each pesticide application was completed;
- (7) the brand name of the pesticide(s) and EPA registration number;
- (8) amount of formulated product or active material applied per acre shall be specified;
- (9) total gallons or pounds per acre of the final tank mix applied per acre;
- (10) name of pilot; and
- (11) signature of the person completing this record.

(d) Each day of application shall be recorded as a separate record.

(e) The pilot shall, prior to application, learn and confirm:

- (1) the boundaries and exact location of the target area(s); and
- (2) the identity of nontarget areas and safety hazards located on or adjacent to the target areas.

(f) Spray and spreading equipment shall be rinsed after each agricultural aircraft ~~operationoperation~~, except when the next agricultural aircraft operation will be made [using the same pesticide, or if another pesticide, compatible with the previous pesticide according to the manufacturer's recommendations was previously in the equipment, and will not result in any adverse effects or created by the drainage or disposal of waste materials and conducted with methods which will not create an adverse effect as defined in this Section.] using the same pesticide, or another pesticide compatible with the previous pesticide, according to the manufacturer's recommendations, was previously used in the equipment and will not result in any adverse effects, or created by the drainage or disposal of waste materials, and will not create an adverse effect as defined in [this Section.] Rule 02 NCAC 09L .1001(2).

1 (g) During application, the flow and mixture of the pesticide(s) shall be uniform. Pilots and contractors shall utilize
2 equipment which will maintain a uniform mixture and flow during application.

3 (h) Pilots and contractors shall use and operate, in any agricultural aircraft operation, aircraft equipped with spray or
4 spreading equipment ~~suited, suited~~ according to its manufacturer's recommendations for the pesticide(s) to be applied.
5 All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent
6 leaking and dissemination of pesticides on any nontarget areas over which the flight is made. Such equipment shall
7 not allow spillage, ~~dripping, dripping,~~ ~~[and backflow]~~ ~~backflow,~~ or create a hazard from vapors or drift.

8 (i) The loading area shall be kept free of pesticide contamination.

9 (j) No pesticide(s) shall be applied by an aerial applicator while any persons other than those assisting in the
10 application are in the target area.

11 (k) The shape of the ~~[tank]~~ ~~tank,~~ ~~[-or]~~ hopper of the ~~[spray]~~ ~~spray,~~ or spreading equipment shall be such as to allow
12 complete drainage during flight and on ground.

13 (l) The contractor or pilot shall notify the Secretary of the Board within 24 hours of any emergency or accidental
14 release of pesticide(s) from the application or auxiliary equipment. They shall provide the following information:

- 15 (1) the name of the pilot;
- 16 (2) the contractor involved;
- 17 (3) the name of the property owner or operator;
- 18 (4) the location of the incident;
- 19 (5) the name of the pesticide;
- 20 (6) the estimated amount of pesticide involved;
- 21 (7) the estimated size of the area that received the spill;
- 22 (8) the description of what is located within 300 feet from the edge of the spill in all directions;
- 23 (9) the number of humans or animals known to have been contaminated; and
- 24 (10) the weather conditions at the site of the emergency or accidental release of pesticide(s).

25
26 *History Note:* Authority G.S. ~~143-147;~~ 143-458; ~~143-463;~~ 143-466;

27 *Eff.* July 2, 1976;

28 *Amended Eff.* May 1, 2009; February 1, 1989; January 1, 1985; August 1, 1982;

29 *Readopted Eff.* ~~August 1, 2020.~~ ~~August 1, 2020;~~

30 *Amended Eff.* November 1, 2024.

02 NCAC 09L .1003 is amended with changes as published in 38:23 NCR 1492-1493 as follows:

02 NCAC 09L .1003 DRIFT CONTROL

No person shall apply a ~~pesticide(s)~~pesticide or pesticides aerially under such conditions that drift from ~~pesticide(s)~~pesticide particles or vapors results in adverse effect. ~~As a minimum, the following precautions shall be taken:~~

- (1) ~~Fixed nozzles shall be spaced on the boom to afford a uniform spray pattern at the height the aircraft will be flown.~~
- (2) ~~All pesticides applied aerially as liquids, in liquid carriers, or as dusts shall be released within 15 feet above the canopy of the target, except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.~~
- (3) ~~All pesticides applied aerially as dry granules or pellets shall be released within 40 feet above the canopy of the target, except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.~~
- (4) ~~All applications of the following liquid pesticide formulations shall be made using a D4 or larger disk with a 46 whirlplate with the discharge directed with the airstream or not more than 10 degrees below the horizontal, and operated at a maximum pressure of 40 pounds per square inch, or a system producing a droplet size range not smaller than the above system, except for rotary wing aircraft flying at speeds of 60 mph or less, in which case the nozzles may be directed downward:~~
 - (a) ~~phenoxy herbicides,~~
 - (b) ~~paraquat,~~
 - (c) ~~picloram (Tordon), and~~
 - (d) ~~dicamba.~~
- (5) ~~Restricted use pesticides other than those specified in (4) of this Rule shall be applied as follows:~~
 - (a) ~~use a D4 or larger disk with a 45 whirlplate with the discharge directed with the airstream or not more than 10 degrees below the horizontal, and operated at a maximum pressure of 40 pounds per square inch; or~~
 - (b) ~~a system producing a droplet size range not smaller than the above system, except for rotary wing aircraft flying at speeds of 60 mph or less, in which case the nozzles may be directed downward; or~~
 - (c) ~~use a boom with outside nozzles placed no closer to the wingtips than 12 1/2 percent of the total wingspan distance. If the length of the boom of the spraying equipment exceeds the nozzle span, a bleeder line shall be provided from the end of the boom to the last nozzle on the boom.~~

*History Note: Authority G.S. 143-458; 143-463;
Eff. July 2, 1976;*

1 *Amended Eff. January 1, 1985;*
2 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*
3 *Amended Eff. November 1, 2024.*

02 NCAC 09L .1102 is amended with changes as published in 38:23 NCR 1493-1494 as follows:

02 NCAC 09L .1102 DEFINITIONS

The following definitions apply in this Section.

- (1) "Certified applicator" means any individual who is certified to use or supervise the use of any restricted use pesticide.
- ~~(2) "Private pesticide applicator" means a person who uses or supervises the use of any restricted use pesticide under the following conditions:~~
- (2) "Noncertified applicator" means any person who is not certified in accordance with G.S. 143-440(b) to use or supervise the use of restricted use pesticides, but who has met the requirements set forth in 40 CFR 171.201(c), and who is using a restricted use pesticide under the direct supervision of a certified applicator in accordance with 40 CFR 171.201.
 - ~~(a) for the purpose of producing any agricultural commodity on property owned or rented by the person or the person's employer; or~~
 - ~~(b) 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.~~
- ~~(3) "Private pesticide applicator certification standards review" means a 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:~~
 - ~~(a) the pest problems and pest control practices associated with agricultural operations;~~
 - ~~(b) storage, use, handling, and disposal of pesticides and their containers;~~
 - ~~(c) labels and labeling information;~~
 - ~~(d) local environmental situations to consider during application to avoid contamination;~~
 - ~~(e) recognition of poisoning symptoms and procedures to follow in case of a pesticide accident;~~
 - ~~(f) protective clothing, equipment, and other worker protection standards;~~
 - ~~(g) federal and State pesticide laws, rules, and regulations and the applicator's related legal responsibility;~~
 - ~~(h) current agricultural production related pesticide technology; and~~
 - ~~(i) sources of advice and guidance necessary for the safe and proper use of each pesticide related to his or her certification including EPA guidance, extension publications and court decisions.~~
- (3) "Private pesticide applicator" means a person who uses or supervises the use of any restricted use pesticide under the following conditions:
 - (a) for the purpose of producing any agricultural commodity on property owned or rented by the person or the person's employer; or

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

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

7 (4) ~~—"Continuing certification credit" means one hour of continuing certification training. Such training~~
8 ~~may be offered during grower meetings, seminars, short courses, or other presentations taught by~~
9 ~~Cooperative Extension Service pesticide training agents, or other privately or publicly sponsored~~
10 ~~training organizations. Private applicators may also earn continuing certification credits by attending~~
11 ~~training sessions for which credit has been assigned in the following commercial categories as set~~
12 ~~forth in Rule .0505(1)(a) through (1)(k):~~

- 13 (a) ~~—aquatic;~~
- 14 (b) ~~—agricultural pest animal;~~
- 15 (c) ~~—agricultural pest plant;~~
- 16 (d) ~~—ornamental and turf;~~
- 17 (e) ~~—forest;~~
- 18 (f) ~~—seed treatment; and~~
- 19 (g) ~~—soil and growing media fumigation.~~

20 (4) "Private pesticide applicator certification standards review" means a training session designed by
21 the North Carolina State University Pesticide Safety Extension Specialist to advance a private
22 pesticide applicator's practical knowledge in areas such as:

- 23 (a) the pest problems and pest control practices associated with agricultural operations;
- 24 (b) storage, use, handling, and disposal of pesticides and their containers;
- 25 (c) labels and labeling information;
- 26 (d) local environmental situations to consider during application to avoid contamination;
- 27 (e) recognition of poisoning symptoms and procedures to follow in case of a pesticide
28 accident;
- 29 (f) protective clothing, equipment, and other worker protection standards;
- 30 (g) federal and state pesticide laws, rules, and regulations and the applicator's related legal
31 responsibility;
- 32 (h) current agricultural production-related pesticide technology; and
- 33 (i) sources of advice and guidance necessary for the safe and proper use of each pesticide
34 related to his or her certification including EPA guidance, extension publications and court
35 decisions.

36 These training sessions shall be taught by Cooperative Extension Service pesticide training agents or other
37 individuals approved by the Pesticide Board on a case-by-case basis, based upon the individual's education,

1 experience, and knowledge of Sub-items (4)(a) through (i) of this Rule.

2 (5) "Continuing certification credit" means one hour of continuing certification training. Such training
3 may be offered during grower meetings, seminars, short courses, or other presentations taught by
4 Cooperative Extension Service pesticide training agents, or other privately or publicly sponsored
5 training organizations. Private applicators may also earn continuing certification credits by
6 attending training sessions for which credit has been assigned in the following commercial
7 categories and subcategories as set forth in ~~Rule .0505(b);~~ Rule 02 NCAC 09L .0505(b):

8 (a) agricultural pest control;

9 (i) crop pest control;

10 (ii) livestock pest control;

11 (b) forest pest control;

12 (c) ornamental and turf pest control;

13 (d) aquatic pest control;

14 (e) seed treatment;

15 (f) soil and growing media fumigation pest control; and

16 (g) aerial pest control.

17
18 *History Note: Authority G.S. 143-440; 143-453;*

19 *Eff. December 1, 1976;*

20 *Amended Eff. June 1, 2016; October 1, 2002; November 1, 1988; July 1, 1987; February 5, 1978;*
21 *April 20, 1977;*

22 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*

23 *Amended Eff. November 1, 2024.*

02 NCAC 09L .01103 is amended with changes as published in 38:23 NCR 1494 as follows:

02 NCAC 09L .1103 CERTIFICATION EXAMINATION

(a) ~~An applicant for an initial private pesticide applicator's certification shall demonstrate by written examination his or her knowledge of pesticides and their usefulness and hazards; his or her competence to act as a private pesticide applicator; and his or her knowledge of the laws and rules governing the use and application of pesticides by private pesticide applicators. Passing grade shall be 70 percent.~~ ADOPTION BY REFERENCE. The North Carolina Pesticide Board hereby ~~adopts~~ incorporates by reference, including subsequent ~~amendments,~~ amendments and editions, Part 171.105 (a) through (i) "Standards for certification of private applicators" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B—Certification Requirements for Applicators of Restricted Use Pesticides." Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, ~~website, www.gpoaccess.gov/cfr/index.html.~~

(b) ~~Any applicant for initial certification in any private applicator certification subclass shall first become certified as a private pesticide applicator. A passing grade shall be 70 percent.~~

(c) Any applicant for initial certification in any private applicator certification subclass shall first become certified as a private pesticide applicator.

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

Eff. December 1, 1976;

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

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .1105 is amended with changes as published in 38:23 NCR 1495 as follows:

02 NCAC 09L .1105 APPLICATIONS UNDER SUPERVISION OF CERTIFIED APPLICATOR

~~(a) The certified applicator acting in a supervisory role shall be available to the non-certified applicator in the event he is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator aware of all directions for use and cautions for safe use and application of any restricted use pesticide he or she may be directed to apply.~~

(a) [ADOPTION BY REFERENCE.] The North Carolina Pesticide Board hereby [adopts] [incorporates] by reference, including subsequent [amendments, amendments and editions], Part 171.201 (a) through (d) of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart C—Supervision of Noncertified Applicators." Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, [website, www.gpoaccess.gov/cfr/index.html].

~~(b) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application site or at the loading and mixing site, if different from the application site, the following:~~

- ~~(1) — written or printed directions for applying the restricted use pesticide, which may include pesticide product labeling;~~
- ~~(2) — written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and unreasonable adverse effects on the environment which may include pesticide product labeling; and~~
- ~~(3) — instructions for direct communication with the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.); Such instructions, when followed, shall be considered direct communication with the certified applicator.~~

(b) All certified applicators must adhere to the provisions of recordkeeping as outlined throughout [in the following chapter and subchapters of this section.] Rule 02 NCAC 09L.

- (1) Before allowing a noncertified applicator to make a restricted use pesticide application under their direct supervision, the supervising certified applicator must create or verify the existence of records documenting that each noncertified applicator has the qualifications required in 40 CFR 171.201(c). [For each noncertified applicator, the records must contain the information appropriate to the method of qualification as follows.] For each noncertified applicator, the records must contain the information appropriate to the method of qualification as provided in Parts (b)(1)(A) through (b)(1)(D) of this Rule.

(A) If the noncertified applicator was trained in accordance with CFR 171.201(c)(1), the record must contain all of the following information: the noncertified applicator's printed name and signature; the date the training requirement in CFR 171.201(c) was met; the name of the person who provided the training; and the title or a description of the training provided.

- (B) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in accordance with CFR 171.201(c)(2), the record must contain all of the information required in 40 CFR 170.501 (d)(1).
- (C) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, as described in CFR 171.201(c)(3), the record must contain the information required by the certifying authority.
- (D) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted, or not certified in the jurisdiction where the use will take place, as described in CFR 171.201(c)(4), the record must include all of the following information: the noncertified applicator's name; the noncertified applicator's certification number; the expiration date of the noncertified applicator's certification; and the certifying authority that issued the certification.
- (2) The certified applicator must create or verify the existence of the record containing the information in Subparagraph (b)(1) of this Rule before allowing the noncertified applicator to use any restricted use pesticides under his or her direct supervision.
- (3) The certified applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (b)(1) of this Rule for three years from the date the noncertified applicator use the pesticide.
- (c) The certified applicator [~~acting in a supervisory role~~] providing direct supervision shall be available to the non-certified applicator in the event he or she is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator fully aware of all directions for use and cautions necessary for safe use and application of any restricted use pesticide they may be directed to apply.
- (d) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application [~~site~~] site, or at the loading and mixing site, if different from the application site, the following:
- (1) detailed written or printed directions for applying the restricted use pesticide (pesticide product label [~~may~~] will suffice);
 - (2) detailed written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and/or unreasonable adverse effects on the environment (pesticide product label [~~may~~] will suffice); and
 - (3) detailed instructions for contacting the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.), and such instructions, when followed, shall result in direct communication with the certified applicator.

History Note: Authority G.S. 143-440;
Eff. December 1, 1976;
Amended Eff. February 5, 1978;

- 1 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*
- 2 *Amended Eff. November 1, 2024.*

02 NCAC 09L .1107 is amended with changes as published in 38:23 NCR 1496 as follows:

02 NCAC 09L .1107 AGE LIMITATIONS

Individuals who wish to be certified as private pesticide applicators shall be ~~at least 18~~ years old prior to participating in a certification option or being issued a single purchase permit under the emergency certification procedure; however, in hardship cases individuals below the age of 16 may be licensed by the Board on an individual basis when they demonstrate to the Board by written, or written and oral examination their qualifications as a private pesticide applicator. ~~procedure.~~ procedure, as set forth in 02 NCAC 09L .1104.

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

Eff. December 1, 1976;

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .1108 is amended with changes as published in 38:23 NCR 1496 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 shall complete two hours of private pesticide applicator certification standards review, plus two continuing certification credit hours, as defined in Rule ~~1102(d)~~ 1102(5) of this Section.

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

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

Eff. July 1, 1987;

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

Readopted Eff. ~~August 1, 2020~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .1109 is amended with changes as published in 38:23 NCR 1496 as follows:

02 NCAC 09L .1109 CERTIFICATION OF PRIVATE APPLICATORS

The following subclassifications are established for the certification of private pesticide applicators:

- (1) "Soil and growing media fumigation" means private pesticide applicators utilizing ground equipment applying restricted use fumigants to property they own or lease, their employer's property, or applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.
- (2) "Agricultural commodity fumigation" means private pesticide applicators applying restricted use fumigants to agricultural commodities on property they own or lease, their employer's property, or applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.
- (3) "Aerial" means private pesticide applicators applying restricted use pesticides from an aircraft onto agricultural commodities on property they own or lease, their employer's property, or applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.

History Note: Authority G.S. 143-440; 143-440; 143-437; 143-453;
Eff. August 1, 2015;
Readopted Eff. August 1, 2020; August 1, 2020;
Amended Eff. November 1, 2024.

02 NCAC 09L .1303 is amended with changes as published in 38:23 NCR 1496 as follows:

02 NCAC 09L .1303 EXEMPTIONS

(a) Restricted use pesticides may be made available to ~~ana noncertified~~ employee under the direct supervision of a certified private or licensed pesticide applicator, certified structural pest control applicator, or structural pest control licensee provided the noncertified employee is acting under the ~~direction and supervision~~ direct supervision of said applicators or licensees and provided further that said noncertified employee is ~~16 years of age or older~~ at least 18 years old.

(b) The ability to make restricted use pesticides available to a noncertified employee, as set forth in Paragraph (a), also This exemption applies to restricted use pesticides in channels of trade prior to making them available for end use.

(c) Prior to making available restricted use pesticides to ~~ana noncertified~~ employee under the direct supervision of a certified private applicator, licensed pesticide applicator, certified structural pest control applicator, or structural pest control licensee, all persons shall require the noncertified employee to sign his or her name and list the certification number of employer under whose direction and supervision the noncertified employee is acting. Such information shall be available for routine inspection by the North Carolina Pesticide Board or its agent.

History Note: Authority G.S. 143-437; 143-440; 143-466;
Eff. August 26, 1977;
Amended Eff. November 1, 1988; February 5, 1978;
Temporary Amendment Eff. November 1, 2001;
Amended Eff. August 1, 2002;
Readopted Eff. ~~August 1, 2020~~ August 1, 2020;
Amended Eff. November 1, 2024.

02 NCAC 09L .01305 is amended with changes as published in 38:23 NCR 1496-1497 as follows:

02 NCAC 09L .1305 RECORD KEEPING REQUIREMENTS

All licensed pesticide dealers, as defined in G.S. 143-460, shall keep records of all sales of restricted use pesticides showing the following:

- (1) date of sale;
- (2) initials of sales clerk;
- (3) name of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this ~~Section~~Section, or ~~[noncertified]~~noncertified employees as set out in Rule .1303 of this Section;
- (4) certification or license number of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this Section;
- (5) certification or license expiration date as shown on the certified or licensed applicator's certification card;
- ~~(6) product brand name;~~
- ~~(6) categories held by certified or licensed applicator;~~
- ~~(7) EPA registration number;~~
- ~~(7) product brand name;~~
- ~~(8) number of individual containers;~~
- ~~(8) EPA registration number;~~
- ~~(9) size of individual containers; and~~
- ~~(9) number of individual containers;~~
- ~~(10) total quantity sold.~~
- ~~(10) size of individual containers; and~~
- ~~(11) total quantity sold.~~

History Note: Authority G.S. 143-437; 143-440; 143-466;
Temporary Adoption Eff. November 1, 2001;
Eff. August 1, 2002;
Readopted Eff. ~~August 1, 2020~~August 1, 2020;
Amended Eff. November 1, 2024.

02 NCAC 09L .1402 is amended with changes as published in 38:23 NCR 1497 as follows:

02 NCAC 09L .1402 RECORD KEEPING REQUIREMENTS

All pesticide applicators, as defined in G.S. 143-460 utilizing ground ~~equipment~~equipment, shall keep for three ~~years~~years, records created within 72 hours after each application of all applications of restricted use pesticides. The records shall ~~show~~contain the following:

- (1) name of licensed pesticide applicator or licensed public operator;
- (2) name and address of the person for whom the pesticide was applied;
- (3) identification of farm or site(s) treated with pesticide(s);
- (4) name of crop, commodity, or object(s) that was treated with pesticide(s);
- (5) approximate acres, size, or number of other object(s) treated;
- (6) the year, month, date, and the specific time of day when each pesticide application was completed and each day of application shall be recorded as a separate record;
- (7) the brand name of the pesticide(s) and EPA registration number(s);
- (8) amount (volume or weight) of pesticide formulation(s) or active ingredient(s) applied per unit of measure; and
- (9) name(s) of person(s) applying pesticide(s).

*History Note: Authority G.S. 143-458; 143-463; 143-466(a);
Eff. October 21, 1977;
Amended Eff. April 1, 2009;
Readopted Eff. ~~August 1, 2020~~August 1, 2020;
Amended Eff. November 1, 2024.*

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024
Attachments: 02 NCAC 09L .0503.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Wednesday, October 9, 2024 6:13 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Thank you Mr. Wiggs. I have corrected the line in .0503, it is attached. I will send all the final rules to the OAH email, with you copied.

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
1002 Mail Service Center | Raleigh, NC 27699
Office: (984) 236-4509 (new office)
Cell: (919) 745-9356
anna.hayworth@ncagr.gov

02 NCAC 09L .0503 is amended with changes as published in 38:23 NCR 1483-1486 as follows:

02 NCAC 09L .0503 PESTICIDE APPLICATORS

(a) ~~The Commissioner shall require the licensing of at~~At least one person at each business location shall hold a pesticide applicator license, and who shall be responsible for the application of pesticides for routine pest control situations.

(b) The person licensed as the pesticide applicator shall supervise and guide ~~the activities of~~ all personnel applying pesticides from the business location of the licensee.

(c) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~incorporates by ~~reference~~reference, for all Pesticide Applicators, Part 171.201 "Supervision of Noncertified Applicators", of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B –Certification Requirements for Applicators of Restricted Use Pesticides.", including subsequent ~~amendments,~~amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, ~~website, www.gpoaccess.gov/cfr/index.html~~.

(d) The requirements for direct supervision of noncertified applicators by pesticide applicators are as follows:

(1) The ~~requirements for the~~ supervising pesticide ~~applicator:~~applicator shall:

(A) ~~the supervising pesticide applicator must~~ have ~~a practical~~ knowledge of applicable federal, ~~state~~state, and tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of said pesticide by noncertified applicators; and

(B) ~~the supervising pesticide applicator must~~ be certified in each ~~category~~category, as set forth in Rule 02 NCAC [09L .0505]09L .0505, applicable to the supervised pesticide use.

~~(2) (C) Requirements for the noncertified applicator include that the supervising pesticide applicator must~~ ensure that each noncertified applicator using any pesticide under his or her direct supervision meets all of the following requirements before using any ~~pesticide:~~pesticide:

~~(A)~~ (1) ~~The~~the non-certified applicator has satisfied one of the qualification requirements under Paragraph (c) of this ~~Rule;~~Rule; ~~including the following:~~

(2) the noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides;

(3) ~~and~~the noncertified applicator has met the minimum age required to use pesticides under the supervision of a pesticide applicator, as well as that a noncertified applicator must be at least 18 years ~~old;~~old;

~~(3) Use specific conditions that must be met for a noncertified applicator to use any pesticide. The supervising pesticide applicator must ensure that all the following requirements are met before allowing a noncertified applicator to use any pesticide under his or her direct supervision.~~

- 1 ~~(A)~~ (4) ~~The supervising pesticide applicator must~~ ensure that the noncertified applicator
2 has access to the applicable product labeling at all times during its ~~use.~~ use;
- 3 ~~(B)~~ (5) ~~Where~~ where the labeling of a pesticide product requires that personal protective
4 equipment be worn for mixing, loading, application, or any other use activities, the
5 supervising pesticide applicator must ensure that any noncertified applicator has clean,
6 labeling-required personal protective equipment in proper operating condition and that the
7 personal protective equipment is worn and used correctly for its intended
8 ~~purpose.~~ purpose;
- 9 ~~(C)~~ (6) ~~The supervising pesticide applicator must~~ provide to each noncertified
10 applicator instructions specific to the site and pesticide used, and these instructions must
11 include labeling directions, precautions, and requirements applicable to the specific use
12 and site, and how the characteristics of the use site (e.g., surface and ground water,
13 endangered species, local population) and the conditions of application (e.g., equipment,
14 method of application, formulation) might increase or decrease the risk of adverse effects,
15 ~~as well as that~~ and the supervising pesticide applicator must provide this information in a
16 manner that the noncertified applicator can ~~understand.~~ understand;
- 17 ~~(D)~~ (7) ~~The supervising pesticide applicator must~~ ensure that before each day of use,
18 equipment used for mixing, loading, transferring, or applying pesticides is in proper
19 operating condition as intended by the manufacturer and can be used without risk of
20 reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the
21 ~~environment.~~ environment;
- 22 ~~(E)~~ (8) ~~The supervising pesticide applicator must~~ ensure that a means to immediately
23 communicate with the supervising pesticide applicator is available to each noncertified
24 applicator using any pesticide under his or her direct ~~supervision.~~ supervision;
- 25 ~~(F)~~ (9) ~~The supervising pesticide applicator must~~ be physically present at the site of the
26 use being supervised when required by the product ~~labeling.~~ labeling; and
- 27 ~~(G)~~ (10) ~~The supervising pesticide applicator must~~ create and verify the existence of the
28 records required by Paragraph (g) of this Rule of the qualification method being
29 ~~completed/verified.~~ verified;

30 (e) Before any noncertified applicator uses any pesticide under the direct supervision of a pesticide applicator, the
31 supervising pesticide applicator must ensure that the noncertified applicator has met at least one of the following
32 qualifications; requirements in Paragraph (e):

- 33 (1) the noncertified applicator has been trained in accordance with Paragraph (f) of this Rule within the
34 last 12 months;
- 35 (2) the noncertified applicator has met training requirements for an agricultural handler under 40 CFR
36 170.501 within the last 12 months;

1 (3) the noncertified applicator has met the requirements established by a certifying authority that meet
2 or exceed the standards in Subparagraph (f)(3) of this Rule; or

3 (4) the noncertified applicator is currently a certified applicator but is not certified to perform the type
4 of application being conducted or is not certified in North Carolina.

5 (f) Guidelines for the noncertified applicator training program ~~[and their subsections]~~ shall be ~~[detailed]~~ as follows.

6 (1) General noncertified applicator training must be presented to noncertified applicators orally from
7 written materials or audio visually. The information must be presented in a manner that the
8 noncertified applicators can understand. The person conducting the training must be present during
9 the entire training program and must respond to the noncertified applicators' questions.

10 (2) The person who conducts the training must meet at least one of the following criteria:

11 (A) be currently certified as a pesticide applicator;

12 (B) be currently designated as a trainer of certified applicators or pesticide handlers by EPA,
13 the certifying authority, or a state, tribal, or federal agency having jurisdiction; or

14 (C) have completed an EPA-approved pesticide safety train-the-trainer program for trainers of
15 handlers under 40 CFR part 170.

16 (3) The noncertified applicator training materials must include information on how the noncertified
17 applicators can protect themselves, other people, and the ~~[environment]~~ environment, before, during
18 and after ~~[making]~~ a pesticide application. The noncertified applicator training materials must
19 include, at a minimum, the following:

20 (A) potential hazards from toxicity and exposure that pesticides present to noncertified
21 applicators and their families, including acute and chronic effects, delayed effects, and
22 sensitization;

23 (B) routes through which pesticides can enter the body;

24 (C) signs and symptoms of common types of pesticide poisonings;

25 (D) emergency first aid for pesticide injuries or poisonings;

26 (E) routine and emergency decontamination procedures, including emergency eye flushing
27 ~~[techniques,]~~ techniques; ~~[including that noncertified applicators must be instructed]~~ that if
28 pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the
29 nearest appropriate location with clean ~~[water,]~~ water; ~~[and that noncertified applicators~~
30 must also be] and instructed to wash or shower with soap and water, shampoo hair, and
31 change into clean clothes as soon as possible;

32 (F) how and when to obtain emergency medical care;

33 (G) after working with pesticides, to wash hands before eating, drinking, using chewing gum
34 or tobacco, or using the toilet;

35 (H) wash or shower with soap and water, shampoo hair and change into clean clothes as soon
36 as possible after working with pesticides;

37 (I) potential hazards from pesticide residues on clothing;

- (J) wash clothes worn while working with pesticides before wearing them again and wash them separately from other clothes;
- (K) do not take pesticides or pesticide containers used at work to your home;
- (L) potential hazards to children and pregnant women from pesticide exposure;
- (M) remove work boots or shoes worn during a pesticide application before entering your home, and remove work clothes worn during a pesticide application and wash or shower before physical contact with children or family members;
- (N) how to report suspected pesticide use violations to the appropriate state or tribal agency responsible for pesticide enforcement;
- (O) the format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the licensed applicator to be physically present during the use of the [pesticide] pesticide, and information on personal protective equipment;
- (P) the need for, and appropriate use and removal of, personal protective equipment;
- (Q) how to recognize, prevent, and provide first aid treatment for heat-related [illness; illnesses];
- (R) safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
- (S) environmental concerns such as drift, runoff, and wildlife hazards;
- (T) restricted use pesticides may be used only by a pesticide applicator or by a noncertified applicator working under the direct supervision of a pesticide applicator;
- (U) the supervising pesticide applicator must be present at the site only when required by the product labeling;
- (V) the supervising pesticide applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used, and that these instructions must include labeling directions, precautions, and requirements applicable to the specific use and [site] site, and how the characteristics of the use site [e.g.,] (for example, surface and ground water, endangered species, local population, and risks) and the conditions of application [e.g.,] (for example, equipment, method of application, formulation, and risk of adverse effects), [and these instructions] must be provided by the supervising pesticide applicator in a manner the noncertified applicator can understand;
- (W) the supervising pesticide applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use;
- (X) the supervising pesticide applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling

1 required personal protective equipment in proper operating ~~condition~~ condition, and that
2 the personal protective equipment is worn and used correctly for its intended purpose;

3 (Y) the supervising pesticide applicator's responsibility to ensure that before each day of use,
4 equipment used for mixing, loading, transferring, or applying pesticides is in proper
5 operating condition as intended by the manufacturer, and can be used without risk of
6 reasonably foreseeable adverse effects to the noncertified applicator, other
7 ~~persons~~ persons, or the environment; and

8 (Z) the supervising pesticide applicator's responsibility to ensure that a means to immediately
9 communicate with the supervising pesticide applicator is available to each noncertified
10 applicator using any pesticide under his or her direct supervision.

11 (g) All applicators must adhere to the provisions of recordkeeping ~~as outlined in the following section and~~
12 ~~subsection;~~ as follows:

13 (1) Before allowing a noncertified applicator to make any pesticide application under their direct
14 supervision, the supervising pesticide applicator must create or verify the existence of records
15 documenting that each noncertified applicator has the qualifications required in
16 ~~paragraph~~ Paragraph (e) of this section. For each noncertified applicator, the records must
17 contain the information ~~appropriate~~ corresponding to the method of qualification.

18 (A) If the noncertified applicator was trained in accordance with ~~Paragraph (e)~~
19 ~~(1)~~ Subparagraph (e)(1) of this Rule, the record must contain all of the following
20 information: the noncertified applicator's printed name and signature; the date
21 the training requirement in Paragraph (d) of this Rule was met; the name of the
22 person who provided the training; and the title or a description of the training
23 provided.

24 (B) If the noncertified applicator was trained as an agricultural handler under ~~40 CFR~~
25 ~~170.501~~ 40 CFR 170.501, in accordance with Subparagraph (e)(2) of this Rule,
26 the record must contain all of the information required ~~at~~ in 40 CFR 170.501
27 (d)(1).

28 (C) If the noncertified applicator qualified by satisfying the requirements established
29 by the certifying authority, as described in Subparagraph (e)(3) of this Rule, the
30 record must contain the information required by the certifying authority.

31 (D) If the noncertified applicator is an otherwise certified applicator who is not
32 certified to perform the type of application being ~~conducted~~ conducted, or not
33 certified in the jurisdiction where the use will take place, as described in
34 Subparagraph (e)(4) of this Rule, the record must include all of the following
35 information: the noncertified applicator's name; the noncertified applicator's
36 certification number; the expiration date of the noncertified applicator's
37 certification; and the certifying authority that issued the certification.

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Wednesday, October 9, 2024 12:00 PM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Subject: RE: NC Pesticide Board Rules-October 2024

Good morning,

There is one change that was not made in **.0503**. On pg. 4, now line 30, please don't use the abbreviation "e.g." per the OAH Style Guide.

Please disregard the request in **.1108**.

I intend to recommend to the RRC that all the final revised rules be approved at the October 30th meeting. Once the final change above is made, please submit all revised rules via email to oah.rules@oah.nc.gov no later than 5pm on October 18, 2024. The electronic copy must be saved as the official rule name (XX NCAC XXXX). Please include me on the email.

Thank you.

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024
Attachments: 02 NCAC 09L .0503.docx; 02 NCAC 09L .0505.docx; 02 NCAC 09L .0506.docx; 02 NCAC 09L .0531.docx; 02 NCAC 09L .1002.docx; 02 NCAC 09L .1103.docx; 02 NCAC 09L .1105.docx; 02 NCAC 09L .1108.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Tuesday, October 8, 2024 3:51 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Good afternoon Mr. Wiggs,

Changes have been made to the attached documents, with the exception of:

.1108:

- In line 8, add "Rule" before "02 NCAC 09L .1104".

I could not seem to find this one. Can you let me know if I missed it?

Thank you!

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
1002 Mail Service Center | Raleigh, NC 27699
Office: (984) 236-4509 (new office)
Cell: (919) 745-9356
anna.hayworth@ncagr.gov

02 NCAC 09L .0503 is amended with changes as published in 38:23 NCR 1483-1486 as follows:

02 NCAC 09L .0503 PESTICIDE APPLICATORS

(a) ~~The Commissioner shall require the licensing of at~~At least one person at each business location shall hold a pesticide applicator license, and who shall be responsible for the application of pesticides for routine pest control situations.

(b) The person licensed as the pesticide applicator shall supervise and guide ~~the activities of~~ all personnel applying pesticides from the business location of the licensee.

(c) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~incorporates by ~~reference~~reference, for all Pesticide Applicators, Part 171.201 "Supervision of Noncertified Applicators", of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B –Certification Requirements for Applicators of Restricted Use Pesticides.", including subsequent ~~amendments,~~amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, ~~website, www.gpoaccess.gov/cfr/index.html~~.

(d) The requirements for direct supervision of noncertified applicators by pesticide applicators are as follows:

(1) The ~~requirements for the~~ supervising pesticide ~~applicator:~~applicator shall:

(A) ~~the supervising pesticide applicator must~~ have ~~a practical~~ knowledge of applicable federal, ~~state~~state, and tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of said pesticide by noncertified applicators; and

(B) ~~the supervising pesticide applicator must~~ be certified in each ~~category~~category, as set forth in Rule 02 NCAC [09L .0505]09L .0505, applicable to the supervised pesticide use.

~~(2) (C) Requirements for the noncertified applicator include that the supervising pesticide applicator must~~ ensure that each noncertified applicator using any pesticide under his or her direct supervision meets all of the following requirements before using any ~~pesticide:~~pesticide:

~~(A)~~ (1) ~~The~~the non-certified applicator has satisfied one of the qualification requirements under Paragraph (c) of this ~~Rule;~~Rule; ~~including the following:~~

(2) the noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides;

(3) ~~and~~the noncertified applicator has met the minimum age required to use pesticides under the supervision of a pesticide applicator, as well as that a noncertified applicator must be at least 18 years ~~old;~~old;

~~(3) Use specific conditions that must be met for a noncertified applicator to use any pesticide. The supervising pesticide applicator must ensure that all the following requirements are met before allowing a noncertified applicator to use any pesticide under his or her direct supervision.~~

- 1 ~~(A)~~ (4) ~~The supervising pesticide applicator must~~ ensure that the noncertified applicator
2 has access to the applicable product labeling at all times during its ~~use.~~ use;
- 3 ~~(B)~~ (5) ~~Where~~ where the labeling of a pesticide product requires that personal protective
4 equipment be worn for mixing, loading, application, or any other use activities, the
5 supervising pesticide applicator must ensure that any noncertified applicator has clean,
6 labeling-required personal protective equipment in proper operating condition and that the
7 personal protective equipment is worn and used correctly for its intended
8 ~~purpose.~~ purpose;
- 9 ~~(C)~~ (6) ~~The supervising pesticide applicator must~~ provide to each noncertified
10 applicator instructions specific to the site and pesticide used, and these instructions must
11 include labeling directions, precautions, and requirements applicable to the specific use
12 and site, and how the characteristics of the use site (e.g., surface and ground water,
13 endangered species, local population) and the conditions of application (e.g., equipment,
14 method of application, formulation) might increase or decrease the risk of adverse effects,
15 ~~as well as that~~ and the supervising pesticide applicator must provide this information in a
16 manner that the noncertified applicator can ~~understand.~~ understand;
- 17 ~~(D)~~ (7) ~~The supervising pesticide applicator must~~ ensure that before each day of use,
18 equipment used for mixing, loading, transferring, or applying pesticides is in proper
19 operating condition as intended by the manufacturer and can be used without risk of
20 reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the
21 ~~environment.~~ environment;
- 22 ~~(E)~~ (8) ~~The supervising pesticide applicator must~~ ensure that a means to immediately
23 communicate with the supervising pesticide applicator is available to each noncertified
24 applicator using any pesticide under his or her direct ~~supervision.~~ supervision;
- 25 ~~(F)~~ (9) ~~The supervising pesticide applicator must~~ be physically present at the site of the
26 use being supervised when required by the product ~~labeling.~~ labeling; and
- 27 ~~(G)~~ (10) ~~The supervising pesticide applicator must~~ create and verify the existence of the
28 records required by Paragraph (g) of this Rule of the qualification method being
29 ~~completed/verified.~~ verified;

30 (e) Before any noncertified applicator uses any pesticide under the direct supervision of a pesticide applicator, the
31 supervising pesticide applicator must ensure that the noncertified applicator has met at least one of the following
32 qualifications; requirements in Paragraph (e):

- 33 (1) the noncertified applicator has been trained in accordance with Paragraph (f) of this Rule within the
34 last 12 months;
- 35 (2) the noncertified applicator has met training requirements for an agricultural handler under 40 CFR
36 170.501 within the last 12 months;

1 (3) the noncertified applicator has met the requirements established by a certifying authority that meet
2 or exceed the standards in Subparagraph (f)(3) of this Rule; or

3 (4) the noncertified applicator is currently a certified applicator but is not certified to perform the type
4 of application being conducted or is not certified in North Carolina.

5 (f) Guidelines for the noncertified applicator training program ~~[and their subsections]~~ shall be ~~[detailed]~~ as follows.

6 (1) General noncertified applicator training must be presented to noncertified applicators orally from
7 written materials or audio visually. The information must be presented in a manner that the
8 noncertified applicators can understand. The person conducting the training must be present during
9 the entire training program and must respond to the noncertified applicators' questions.

10 (2) The person who conducts the training must meet at least one of the following criteria:

11 (A) be currently certified as a pesticide applicator;

12 (B) be currently designated as a trainer of certified applicators or pesticide handlers by EPA,
13 the certifying authority, or a state, tribal, or federal agency having jurisdiction; or

14 (C) have completed an EPA-approved pesticide safety train-the-trainer program for trainers of
15 handlers under 40 CFR part 170.

16 (3) The noncertified applicator training materials must include information on how the noncertified
17 applicators can protect themselves, other people, and the ~~[environment]~~ environment, before, during
18 and after ~~[making]~~ a pesticide application. The noncertified applicator training materials must
19 include, at a minimum, the following:

20 (A) potential hazards from toxicity and exposure that pesticides present to noncertified
21 applicators and their families, including acute and chronic effects, delayed effects, and
22 sensitization;

23 (B) routes through which pesticides can enter the body;

24 (C) signs and symptoms of common types of pesticide poisonings;

25 (D) emergency first aid for pesticide injuries or poisonings;

26 (E) routine and emergency decontamination procedures, including emergency eye flushing
27 ~~[techniques,]~~ techniques; ~~[including that noncertified applicators must be instructed]~~ that if
28 pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the
29 nearest appropriate location with clean ~~[water,]~~ water; ~~[and that noncertified applicators~~
30 must also be] and instructed to wash or shower with soap and water, shampoo hair, and
31 change into clean clothes as soon as possible;

32 (F) how and when to obtain emergency medical care;

33 (G) after working with pesticides, to wash hands before eating, drinking, using chewing gum
34 or tobacco, or using the toilet;

35 (H) wash or shower with soap and water, shampoo hair and change into clean clothes as soon
36 as possible after working with pesticides;

37 (I) potential hazards from pesticide residues on clothing;

- (J) wash clothes worn while working with pesticides before wearing them again and wash them separately from other clothes;
- (K) do not take pesticides or pesticide containers used at work to your home;
- (L) potential hazards to children and pregnant women from pesticide exposure;
- (M) remove work boots or shoes worn during a pesticide application before entering your home, and remove work clothes worn during a pesticide application and wash or shower before physical contact with children or family members;
- (N) how to report suspected pesticide use violations to the appropriate state or tribal agency responsible for pesticide enforcement;
- (O) the format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the licensed applicator to be physically present during the use of the [pesticide]pesticide, and information on personal protective equipment;
- (P) the need for, and appropriate use and removal of, personal protective equipment;
- (Q) how to recognize, prevent, and provide first aid treatment for heat-related [illness; illnesses];
- (R) safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
- (S) environmental concerns such as drift, runoff, and wildlife hazards;
- (T) restricted use pesticides may be used only by a pesticide applicator or by a noncertified applicator working under the direct supervision of a pesticide applicator;
- (U) the supervising pesticide applicator must be present at the site only when required by the product labeling;
- (V) the supervising pesticide applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used, and that these instructions must include labeling directions, precautions, and requirements applicable to the specific use and [site]site, and how the characteristics of the use site [e.g.,](for example, surface and ground water, endangered species, local population, and risks) and the conditions of application (e.g., equipment, method of application, formulation, and risk of adverse effects), [and these instructions] must be provided by the supervising pesticide applicator in a manner the noncertified applicator can understand;
- (W) the supervising pesticide applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use;
- (X) the supervising pesticide applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling

1 required personal protective equipment in proper operating ~~condition~~ condition, and that
2 the personal protective equipment is worn and used correctly for its intended purpose;

3 (Y) the supervising pesticide applicator's responsibility to ensure that before each day of use,
4 equipment used for mixing, loading, transferring, or applying pesticides is in proper
5 operating condition as intended by the manufacturer, and can be used without risk of
6 reasonably foreseeable adverse effects to the noncertified applicator, other
7 ~~persons~~ persons, or the environment; and

8 (Z) the supervising pesticide applicator's responsibility to ensure that a means to immediately
9 communicate with the supervising pesticide applicator is available to each noncertified
10 applicator using any pesticide under his or her direct supervision.

11 (g) All applicators must adhere to the provisions of recordkeeping ~~as outlined in the following section and~~
12 ~~subsection;~~ as follows:

13 (1) Before allowing a noncertified applicator to make any pesticide application under their direct
14 supervision, the supervising pesticide applicator must create or verify the existence of records
15 documenting that each noncertified applicator has the qualifications required in
16 ~~paragraph~~ Paragraph (e) of this section. For each noncertified applicator, the records must
17 contain the information ~~appropriate~~ corresponding to the method of qualification.

18 (A) If the noncertified applicator was trained in accordance with ~~Paragraph (e)~~
19 ~~(1)~~ Subparagraph (e)(1) of this Rule, the record must contain all of the following
20 information: the noncertified applicator's printed name and signature; the date
21 the training requirement in Paragraph (d) of this Rule was met; the name of the
22 person who provided the training; and the title or a description of the training
23 provided.

24 (B) If the noncertified applicator was trained as an agricultural handler under ~~40 CFR~~
25 ~~170.501~~ 40 CFR 170.501, in accordance with Subparagraph (e)(2) of this Rule,
26 the record must contain all of the information required ~~at~~ in 40 CFR 170.501
27 (d)(1).

28 (C) If the noncertified applicator qualified by satisfying the requirements established
29 by the certifying authority, as described in Subparagraph (e)(3) of this Rule, the
30 record must contain the information required by the certifying authority.

31 (D) If the noncertified applicator is an otherwise certified applicator who is not
32 certified to perform the type of application being ~~conducted~~ conducted, or not
33 certified in the jurisdiction where the use will take place, as described in
34 Subparagraph (e)(4) of this Rule, the record must include all of the following
35 information: the noncertified applicator's name; the noncertified applicator's
36 certification number; the expiration date of the noncertified applicator's
37 certification; and the certifying authority that issued the certification.

1 (2) The supervising pesticide applicator must create or verify the existence of the record containing the
2 information in Subparagraph (g)(1) of this Rule before allowing the noncertified applicator to use
3 any pesticides under his or her direct supervision.

4 (h) The pesticide applicator supervising any noncertified applicator must have access to records documenting the
5 information required in Subparagraph (g)(1) of this Rule at the supervising pesticide applicator's principal place of
6 business for three years from the date the noncertified applicator uses the pesticide.

7
8 History Note: Authority G.S. 143-452; 143-453; 143-458; ~~143-460(30); 143-460(19)(20); 143-460(29);~~
9 Eff. February 1, 1976;
10 Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;
11 Amended Eff. November 1, 2024.
12

02 NCAC 09L .0505 is amended with changes as published in 38:23 NCR 1488-1489 as follows:

02 NCAC 09L .0505 CLASSIFICATIONS

(a) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~ incorporates by ~~reference~~ reference, for all Pesticide Applicators, Part 171.101 "Commercial applicator certification categories" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B—Certification Requirements for Applicators of Restricted Use Pesticides," including subsequent ~~amendments~~ amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, ~~website, www.gpoaccess.gov/cfr/index.html~~. The following classifications shall apply in North Carolina:

(1) neither the sodium cyanide predator control nor the sodium fluoroacetate predator control categories shall be created in North Carolina;

(2) additional classifications and their respective ~~subclassifications~~ subclassifications, not established by the federal guidelines referenced in Paragraph (a) of this ~~Rule~~ Rule, that shall be created in North ~~Carolina~~ Carolina, are as follows:

(A) commercial public health pest control;

(B) wood treatment;

(C) livestock pest control, which shall include the subsections of livestock; poultry; and small animals.

(b) The following classifications and subclassifications shall apply to the licensing of pesticide applicators:

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

~~(A)(a) agricultural pest control;~~ agricultural pest control, including the subsections of crop pest control and livestock pest control (including ~~further~~ subcategories of livestock, poultry, and small animals);

~~(B)(b) forest pest control;~~

~~(C)(c) ornamental and turf pest control;~~

~~(D)(d) aquatic pest control;~~

~~(E)(e) right-of-way pest control;~~

~~(F)(f) public health pest control;~~

~~(g) regulatory pest control;~~

~~(G) commercial public health pest control;~~

~~(h) demonstration and research pest control;~~

~~(i) agricultural pest control;~~

~~(A) 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;~~
(H) ~~regulatory pest control;~~
(i) ~~seed treatment;~~
(I) ~~demonstration and research pest control, with the subsections of agricultural crop pest control; agricultural livestock pest control (including further subcategories of livestock, poultry, and small animals); forest pest control; ornamental and turf pest control; aquatic pest control; right-of-way pest control; commercial public health pest control; public health pest control; regulatory pest control; wood treatment; spoil and growing media fumigation pest control; aerial pest control;~~
(j) ~~wood treatment; and~~
(J) ~~seed treatment;~~
(k) ~~soil and growing media fumigation pest control;~~
(K) ~~wood treatment;~~
(L) ~~soil and growing media fumigation pest control; and~~
(M) ~~aerial pest control;~~
(2) pesticide applicators and public operators utilizing aerial equipment:
(A)(a) ~~agricultural pest control: plant; crop pest control;~~
(B)(b) ~~forest pest control;~~
(C)(c) ~~ornamental and turf pest control;~~
(D)(d) ~~aquatic pest control;~~
(E)(e) ~~right-of-way pest control;~~
(F)(f) ~~public health pest control;~~
(g) ~~regulatory pest control; and~~
(G) ~~commercial public health pest control;~~
(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.~~

(H) regulatory pest control;

(I) demonstration and research pest control, which shall include the subsections of agricultural pest control; crop pest control; forest pest control; ornamental and turf pest control; aquatic pest control; right-of-way pest control; regulatory pest control; public health pest control; and aerial pest control; and

(J) aerial pest control.

*History Note: Authority G.S. 143-437; 143-452(d); 143-460(29); 143-460(33);
Eff. February 1, 1976;
Amended Eff. June 1, 2016; November 1, 1984; August 26, 1976;
Readopted Eff. August 1, 2020; August 1, 2020;
Amended Eff. November 1, 2024.*

02 NCAC 09L .0506 is amended with changes as published in 38:23 NCR 1489-1490 as follows:

02 NCAC 09L .0506 GOVERNMENTAL WORKERS

Persons in job classifications in the government unit or agencies listed below are required to be licensed as public operators:

- (1) North Carolina Department of Transportation, division of highway (14 divisions);
- (2) United States Department of Agriculture, Animal and Plant Health Inspection Service:
 - (a) staff specialist for witchweed control,
 - (b) assistant district director,
 - (c) work unit supervisors,
 - (d) designated inspectors who supervise pesticide applications,
 - (e) witchweed methods development laboratory supervisor,
 - (f) witchweed methods development assistant laboratory supervisor;
- (3) North Carolina Department of Agriculture and Consumer Services plant industry division:
 - (a) plant pest administrator,
 - (b) entomological program specialist,
 - (c) plant pathologist,
 - (d) greenhouse manager,
 - (e) area supervisors,
 - (f) pest control specialists,
 - (g) all plant pest inspectors who have supervision of pesticide applications as part of their job assignments;
- (4) North Carolina Department of ~~Environment, Health, and Natural Resources, Forest Resources Division, Agriculture and Consumer Services, North Carolina Forest~~ [service] Service staff, as outlined in their job descriptions: pest control unit:
 - (a) ~~pest control foresters, foresters and forest technicians tasked with forest management duties such as writing, reviewing and approving herbicide application recommendations;~~ recommendations;
 - (b) ~~pest control staff forester, forest health program head and staff;~~
 - (c) ~~nursery unit superintendents, nursery program managers, technicians, and equipment operators; and~~
 - (d) ~~tree improvement unit technicians, tree improvement program supervisors, technicians, and equipment operators.~~
 - (e) ~~forestation unit rangers;~~
- (5) ~~North Carolina Department of Environment, Health, and Natural Resources, Public Health Pest Management Section, Division of Environmental Health one medical entomologist;~~
- (5) [Count] County boards of health and municipal governments;

- 1 (a) at least one county environmental health specialist must be licensed where the health
2 department employees apply all the pesticides or supervise, on a weekly or more frequent
3 basis, the activities of all municipal employees applying [pesticides, at least one county
4 environmental health specialist must be licensed; pesticides;
- 5 (b) one county environmental health specialist and one municipal employee for each
6 municipality must be licensed in counties where the health department personnel apply
7 pesticides but have no direct control over municipal employees who apply pesticides; and
- 8 (c) one licensed supervisor for each municipality, sanitary [district]district, or mosquito
9 control district must be licensed in counties where only municipal, sanitary
10 [district]district, or mosquito control district personnel apply pesticides.
- 11 (6) County boards of health and municipal governments:
- 12 (a) In counties where the health department employees apply all the pesticides or supervise,
13 on a weekly or more frequent basis, the activities of all municipal employees applying
14 pesticides, at least one county sanitarian must be licensed.
- 15 (b) One county sanitarian and one municipal employee for each municipality must be licensed
16 in counties where the health department personnel apply pesticides but have no direct
17 control over municipal employees who apply pesticides.
- 18 (c) One licensed supervisor for each municipality, sanitary district or mosquito control district
19 must be licensed in counties where only municipal, sanitary district or mosquito control
20 district personnel apply pesticides.

21

22 *History Note:* Authority G.S. 143-437; 143-453(c)(1); 143-460(33);
23 Eff. February 1, 1976;
24 Amended Eff. May 1, 1991; August 1, 1982; January 27, 1978;
25 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November
26 22, 2018; November 22, 2018;
27 Amended Eff. November 1, 2024.

02 NCAC 09L .0507 is amended with changes as published in 38:23 NCR 1490 as follows:

02 NCAC 09L .0507 CATEGORIES OF CONSULTANTS

Each person acting as a pest control consultant as defined in G.S. 143-460(27) shall be licensed. The categories requiring a license ~~may~~shall include the following:

- (1) agricultural pest control:
 - (a) ~~plant; and~~crop pest control;
 - (b) ~~animal;~~livestock pest control;
- (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. ~~143-437;~~ 143-455; 143-460(27);

Eff. February 1, 1976;

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

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~November~~

~~22, 2018; November 22, 2018;~~

Amended Eff. November 1, 2024.

02 NCAC 09L .0531 is adopted as published with changes in 38:23 NCR 1491-1492 as follows:

02 NCAC 09L .0531 PESTICIDE LICENSE EXAMINATION REQUIREMENT

(a) ~~[ADOPTION BY REFERENCE:]~~ The North Carolina Pesticide Board, hereby ~~[adopts]~~ incorporates by reference for all Pesticide Applicators, Part 171.103 (a) through (e) “Standards for certification of commercial applicators” of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B–Certification Requirements for Applicators of Restricted Use Pesticides" including subsequent ~~[amendments.]~~ amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>. ~~[website, www.gpoaccess.gov/cfr/index.html.]~~

(b) Core ~~[requirements]~~ requirements, as described in 40 CFR ~~[171.103]~~ 171.103, must be met for all categories and subcategories.

(c) The competency standards for additional categories established in North Carolina are as follows:

(1) commercial public health pest control: applicators must demonstrate practical knowledge of pests that are important vectors of disease, including recognizing the pests and signs of their presence, their habitats, their life cycles, ~~[biology]~~ biology, and behavior as it may be relevant to problem identification and ~~[control, as well as]~~ control; the required knowledge on how to minimize damage to and contamination of areas ~~[treated.]~~ treated; acute and chronic exposure of people and ~~[pets,]~~ pets; and non-target exposures;

(2) wood treatment: applicators must demonstrate a practical knowledge of the different types of wood, tree ~~[anatomy and physiology]~~ anatomy, physiology, and be able to identify what treatment factors are specific to ~~[each, as well as]~~ each; common disease and insect problems and factors, such as moisture, that must be considered prior to beginning a ~~[treatment, and]~~ treatment; knowledge of the different types of wood preservatives, ~~[as well as]~~ and the specific PPE requirements and cautions associated with ~~[each,]~~ each; and proper disposal of treated and unused wood;

(3) livestock pest control and it’s subcategories are established as follows:

(A) livestock: applicators must demonstrate practical knowledge of the various types of livestock, the area where they’re ~~[housed]~~ housed, and their associated ~~[pests,]~~ pests; ~~[as well as the required knowledge which shall include]~~ specific pesticide toxicity and residue ~~[potential,]~~ potential; and the hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment;

(B) poultry: applicators must demonstrate practical knowledge of poultry, typical poultry operations and their associated ~~[pests,]~~ pests; ~~[as well as the required knowledge of]~~ specific pesticide toxicity and residue potential, and the hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment; and

1 (C) small animal: applicators must demonstrate practical knowledge of small companion
2 animals and their associated [pests, pests; as well as the required knowledge of] specific
3 pesticide toxicity and residue potential, and the hazards associated with such factors as
4 formulation, application techniques, age of animals, stress, and extent of treatment.
5

6 *History Note:* Authority G.S. 143-437; 143-449(b); 143-4523(b); 143-452(f); 143-453(b); 143-455; 143-460;
7 Adopted Eff. November 1, 2024.

02 NCAC 09L .1002 is amended with changes as published in 38:23 NCR 1492 as follows:

02 NCAC 09L .1002 GENERAL REQUIREMENTS

(a) All agricultural aircraft operations in North Carolina shall comply with the Federal Occupational Safety and Health Act of 1971 (OSHA), Title 29 U.S.C. Chapter ~~15,15~~; the North Carolina Occupational Safety and Health Law, G.S. Chapter 95 Article 16, all and rules and regulations promulgated ~~thereunderthereunder~~; and the Federal Aviation ~~RegulationsRegulations~~, 14 CFR Part 137. In any case of conflict, a provision of the aforementioned authorities takes precedence over any of these Rules.rules.

(b) Each aerial application business shall have a licensed contractor. ~~The contractor shall be responsible for the compliance of the business with the North Carolina Pesticide Law of 1971 and all rules promulgated thereunder[thereunder,] except where the responsibility is designated to another person(s) this Section.~~

(c) All agricultural aircraft operations (pilot or contractor) shall keep a written record to be completed within 72 hours after each application, unless requested sooner by an employee of the Pesticide Section for the purposes of a pesticide incident investigation. The record shall showcontain the following:

- (1) name of contractor;
- (2) name and address of the person for whom the pesticide was applied;
- (3) identification of farm or land sites treated with pesticide(s);
- (4) name of crop which was treated;
- (5) total number of acres treated;
- (6) the year, month, date, and the specific time of day when each pesticide application was completed;
- (7) the brand name of the pesticide(s) and EPA registration number;
- (8) amount of formulated product or active material applied per acre shall be specified;
- (9) total gallons or pounds per acre of the final tank mix applied per acre;
- (10) name of pilot; and
- (11) signature of the person completing this record.

(d) Each day of application shall be recorded as a separate record.

(e) The pilot shall, prior to application, learn and confirm:

- (1) the boundaries and exact location of the target area(s); and
- (2) the identity of nontarget areas and safety hazards located on or adjacent to the target areas.

(f) Spray and spreading equipment shall be rinsed after each agricultural aircraft ~~operationoperation~~, except when the next agricultural aircraft operation will be made [using the same pesticide, or if another pesticide, compatible with the previous pesticide according to the manufacturer's recommendations was previously in the equipment, and will not result in any adverse effects or created by the drainage or disposal of waste materials and conducted with methods which will not create an adverse effect as defined in this Section.] using the same pesticide, or another pesticide compatible with the previous pesticide, according to the manufacturer's recommendations, was previously used in the equipment and will not result in any adverse effects, or created by the drainage or disposal of waste materials, and will not create an adverse effect as defined in [this Section.] Rule 02 NCAC 09L .1001(2).

1 (g) During application, the flow and mixture of the pesticide(s) shall be uniform. Pilots and contractors shall utilize
2 equipment which will maintain a uniform mixture and flow during application.

3 (h) Pilots and contractors shall use and operate, in any agricultural aircraft operation, aircraft equipped with spray or
4 spreading equipment ~~suited, suited~~ according to its manufacturer's recommendations for the pesticide(s) to be applied.
5 All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent
6 leaking and dissemination of pesticides on any nontarget areas over which the flight is made. Such equipment shall
7 not allow spillage, ~~dripping dripping~~, ~~and backflow~~ ~~backflow~~, or create a hazard from vapors or drift.

8 (i) The loading area shall be kept free of pesticide contamination.

9 (j) No pesticide(s) shall be applied by an aerial applicator while any persons other than those assisting in the
10 application are in the target area.

11 (k) The shape of the ~~tank~~ ~~tank~~, ~~or~~ hopper of the ~~spray~~ ~~spray~~, or spreading equipment shall be such as to allow
12 complete drainage during flight and on ground.

13 (l) The contractor or pilot shall notify the Secretary of the Board ~~within 24 hours~~ of any emergency or accidental
14 release of pesticide(s) from the application or auxiliary equipment. They shall provide the following information:

- 15 (1) the name of the pilot;
- 16 (2) the contractor involved;
- 17 (3) the name of the property owner or operator;
- 18 (4) the location of the incident;
- 19 (5) the name of the pesticide;
- 20 (6) the estimated amount of pesticide involved;
- 21 (7) the estimated size of the area that received the spill;
- 22 (8) the description of what is located within 300 feet from the edge of the spill in all directions;
- 23 (9) the number of humans or animals known to have been contaminated; and
- 24 (10) the weather conditions at the site of the emergency or accidental release of pesticide(s).

25
26 *History Note:* Authority G.S. ~~143-147~~; 143-458; ~~143-463~~; 143-466;

27 *Eff.* July 2, 1976;

28 *Amended Eff.* May 1, 2009; February 1, 1989; January 1, 1985; August 1, 1982;

29 *Readopted Eff.* ~~August 1, 2020~~ ~~August 1, 2020~~;

30 *Amended Eff.* November 1, 2024.

02 NCAC 09L .01103 is amended with changes as published in 38:23 NCR 1494 as follows:

02 NCAC 09L .1103 CERTIFICATION EXAMINATION

(a) ~~An applicant for an initial private pesticide applicator's certification shall demonstrate by written examination his or her knowledge of pesticides and their usefulness and hazards; his or her competence to act as a private pesticide applicator; and his or her knowledge of the laws and rules governing the use and application of pesticides by private pesticide applicators. Passing grade shall be 70 percent.~~ ADOPTION BY REFERENCE. The North Carolina Pesticide Board hereby ~~adopts~~ incorporates by reference, including subsequent ~~amendments,~~ amendments and editions, Part 171.105 (a) through (i) "Standards for certification of private applicators" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B—Certification Requirements for Applicators of Restricted Use Pesticides." Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>.~~website, www.gpoaccess.gov/cfr/index.html.~~

(b) ~~Any applicant for initial certification in any private applicator certification subclass shall first become certified as a private pesticide applicator. A passing grade shall be 70 percent.~~

(c) Any applicant for initial certification in any private applicator certification subclass shall first become certified as a private pesticide applicator.

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

Eff. December 1, 1976;

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

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .1105 is amended with changes as published in 38:23 NCR 1495 as follows:

02 NCAC 09L .1105 APPLICATIONS UNDER SUPERVISION OF CERTIFIED APPLICATOR

~~(a) The certified applicator acting in a supervisory role shall be available to the non-certified applicator in the event he is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator aware of all directions for use and cautions for safe use and application of any restricted use pesticide he or she may be directed to apply.~~

(a) [ADOPTION BY REFERENCE.] The North Carolina Pesticide Board hereby [adopts] [incorporates] by reference, including subsequent [amendments, amendments and editions], Part 171.201 (a) through (d) of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart C—Supervision of Noncertified Applicators." Copies of this material may be obtained at no cost from the U.S. Government Printing Office website, <https://www.gpo.gov/>, [website, www.gpoaccess.gov/cfr/index.html].

~~(b) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application site or at the loading and mixing site, if different from the application site, the following:~~

- ~~(1) — written or printed directions for applying the restricted use pesticide, which may include pesticide product labeling;~~
- ~~(2) — written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and unreasonable adverse effects on the environment which may include pesticide product labeling; and~~
- ~~(3) — instructions for direct communication with the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.); Such instructions, when followed, shall be considered direct communication with the certified applicator.~~

(b) All certified applicators must adhere to the provisions of recordkeeping as outlined throughout [in the following chapter and subchapters of this section.] Rule 02 NCAC 09L.

- (1) Before allowing a noncertified applicator to make a restricted use pesticide application under their direct supervision, the supervising certified applicator must create or verify the existence of records documenting that each noncertified applicator has the qualifications required in 40 CFR 171.201(c). [For each noncertified applicator, the records must contain the information appropriate to the method of qualification as follows.] For each noncertified applicator, the records must contain the information appropriate to the method of qualification as provided in Parts (b)(1)(A) through (b)(1)(D) of this Rule.

(A) If the noncertified applicator was trained in accordance with CFR 171.201(c)(1), the record must contain all of the following information: the noncertified applicator's printed name and signature; the date the training requirement in CFR 171.201(c) was met; the name of the person who provided the training; and the title or a description of the training provided.

- (B) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in accordance with CFR 171.201(c)(2), the record must contain all of the information required in 40 CFR 170.501 (d)(1).
- (C) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, as described in CFR 171.201(c)(3), the record must contain the information required by the certifying authority.
- (D) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted, or not certified in the jurisdiction where the use will take place, as described in CFR 171.201(c)(4), the record must include all of the following information: the noncertified applicator's name; the noncertified applicator's certification number; the expiration date of the noncertified applicator's certification; and the certifying authority that issued the certification.
- (2) The certified applicator must create or verify the existence of the record containing the information in Subparagraph (b)(1) of this Rule before allowing the noncertified applicator to use any restricted use pesticides under his or her direct supervision.
- (3) The certified applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (b)(1) of this Rule for three years from the date the noncertified applicator use the pesticide.
- (c) The certified applicator ~~[acting in a supervisory role]~~ providing direct supervision shall be available to the non-certified applicator in the event he or she is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator fully aware of all directions for use and cautions necessary for safe use and application of any restricted use pesticide they may be directed to apply.
- (d) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application ~~[site]~~ site, or at the loading and mixing site, if different from the application site, the following:
- (1) detailed written or printed directions for applying the restricted use pesticide (pesticide product label ~~[may]~~ will suffice);
 - (2) detailed written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and/or unreasonable adverse effects on the environment (pesticide product label ~~[may]~~ will suffice); and
 - (3) detailed instructions for contacting the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.), and such instructions, when followed, shall result in direct communication with the certified applicator.

History Note: Authority G.S. 143-440;
Eff. December 1, 1976;
Amended Eff. February 5, 1978;

- 1 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*
- 2 *Amended Eff. November 1, 2024.*

02 NCAC 09L .1108 is amended with changes as published in 38:23 NCR 1496 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 shall complete two hours of private pesticide applicator certification standards review, plus two continuing certification credit hours, as defined in Rule ~~1102(d)~~ 1102(5) of this Section.

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

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

Eff. July 1, 1987;

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

Readopted Eff. ~~August 1, 2020~~ August 1, 2020;

Amended Eff. November 1, 2024.

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Monday, October 7, 2024 3:41 PM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mclennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Subject: RE: NC Pesticide Board Rules-October 2024

Thank you. I've reviewed .0507 and I have no further requests for that Rule.

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024
Attachments: 02 NCAC 09L .0507.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Monday, October 7, 2024 3:32 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Mclennan, Christopher <cmclennan@ncdoj.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Good afternoon,

I will work on all those changes asap and get them returned to you. I am currently working Hurricane Helene response and recovery, so I will aim to get them back to you no later than tomorrow.

And my apologies, I had left off .0507, it is attached here.

Thank you!!

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
1002 Mail Service Center | Raleigh, NC 27699
Office: (984) 236-4509 (new office)
Cell: (919) 745-9356
anna.hayworth@ncagr.gov

02 NCAC 09L .0507 is amended with changes as published in 38:23 NCR 1490 as follows:

02 NCAC 09L .0507 CATEGORIES OF CONSULTANTS

Each person acting as a pest control consultant as defined in G.S. 143-460(27) shall be licensed. The categories requiring a license ~~may~~shall include the following:

- (1) agricultural pest control:
 - (a) ~~plant; and~~crop pest control;
 - (b) ~~animal;~~livestock pest control;
- (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. ~~143-437;~~ 143-455; 143-460(27);

Eff. February 1, 1976;

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

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~November~~

~~22, 2018; November 22, 2018;~~

Amended Eff. November 1, 2024.

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Monday, October 7, 2024 12:00 PM

To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>; Feagans, John E <John.Feagans@ncagr.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>

Subject: RE: NC Pesticide Board Rules-October 2024

Good morning,

Please see my comments and requests below:

.0503:

- In what is now line 14, please include the website address where the materials can be obtained at no cost.
- Based on your response to my question about “and labeling”, please add G.S. 143-460(19)(20) to the History Note.
- On pg. 2, (9), now line 26, add “and” after the semicolon.
- On pg. 4, now lines 28-29, please don’t use the abbreviation “e.g.” per the OAH Style Guide.

.0505:

- In what is now line 9, please include the website address where the materials can be obtained at no cost.
- On pg. 2, line 20, add “and” after the semicolon.
- On pg. 3, line 6, add “and” after the semicolon.

.0506:

- On pg. 2, line 9, add a comma after “sanitary district”.

I don’t see where 02 NCAC 09L .0507 was attached in your response.

.0531:

- In what is now line 9, please include the website address where the materials can be obtained at no cost.

.1002:

- In (a), now line 7, add a comma after “Regulations”.
- In (f), line 30, move (f) left to line up directly under (e).
- On pg. 2, now line 2, add “Rule” before “02 NCAC 09L .1001(2)”.

.1103:

- In what is now line 12, please include the website address where the materials can be obtained at no cost.

.1105:

- In what is now line 12, please include the website address where the materials can be obtained at no cost.
- In now line 25, add “Rule” before “02 NCAC 09L ”.

.1108:

- In line 8, add “Rule” before “02 NCAC 09L .1104”.

- *In (c), line 10, consider adding “corresponding” before the second “subclass”. – Changes made. I don’t see where this change was made.*

I’m otherwise satisfied with your revisions and comments to my original request for changes. Please reply to the requested changes above at your earliest convenience.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024
Attachments: 02 NCAC 09L .0503.docx; 02 NCAC 09L .0504.docx; 02 NCAC 09L .0505.docx; 02 NCAC 09L .0506.docx; 02 NCAC 09L .0512.docx; 02 NCAC 09L .0522.docx; 02 NCAC 09L .0531.docx; 02 NCAC 09L .1002.docx; 02 NCAC 09L .1003.docx; 02 NCAC 09L .1102.docx; 02 NCAC 09L .1103.docx; 02 NCAC 09L .1105.docx; 02 NCAC 09L .1107.docx; 02 NCAC 09L .1108.docx; 02 NCAC 09L .1109.docx; 02 NCAC 09L .1303.docx; 02 NCAC 09L .1305.docx; 02 NCAC 09L .1402.docx; 10_2024_Pesticide Board-Request for Technical Changes (004)_ARH 10.1.24.docx

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Thursday, October 3, 2024 4:28 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; McLennan, Christopher <cmclennan@ncdoj.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Good afternoon,

Please see attached the agency response and language for the requested technical corrections. Let me know if you have any questions.

Thank you!

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Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day~~,~~ and”
 - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Pesticide Board

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

All of these rules were published in N.C. Register on June 3, 2024. The “Instructions on How to Demand a Public Hearing” (Volume 38-Issue 23-pg. 1483) say “Any person may request a public hearing on the proposed rules by submitting a request in writing no later than May 15th, 2024”. How is this not a violation of G.S. 150B-21.9 (a)(4)?

*How will the RRC know if a hearing would’ve been requested if the deadline wasn’t incorrect in the N.C. Register? – **Response below.***

The date published in the Register of May 15th, 2024, was a typographical error, missed by both the agency when submitted for publication and the RRC staff. The agency and staff went back and forth on multiple edits regarding the publication, without either catching this issue. As the date of request was beyond the publication date of the Register on June 1st, 2024, it would have been difficult to request a hearing date beforehand, and thus, an understood error. It is reasonable to assume that had any member of the public encountered this issue, they would have reached out to the agency, or someone related for clarification, given the obvious error, and no such contacts were made.

Communication has been made by the department for years that these rule changes were coming to the industry, related associations, and interested parties, and have spread this information out through a variety of sources, including but not limited to: private applicator recertification meetings, cooperative extension, field staff, and trade show informational booths at a variety of events hosted by the division (i.e. Green and Grow, Southern Farm Show). These rules were presented before the NC Pesticide Board prior to publication, which

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

included representatives from a variety of interested parties, including but not limited to: NC Farm Bureau, Toxic Free NC, etc. These meetings are frequently attended by not just interested individuals and stakeholders, but members of the public, and its information is widely distributed throughout the community.

During the comment period, comments were received from outside sources, including both industry and stakeholders, for example, Leigh Ann Richardson of Koppers Performance Chemicals Inc. (industry member), and Jeffrey T. Miller, President and Executive Director of the Treated Wood Council (stakeholder association), as well as various calls from the public during the comment period to address their specific concerns. Division staff communicated with all interested parties and addressed all inquiries.

In addition, the agency was in communication with interested parties and industry stakeholders leading up to the initiation of rulemaking, as well as the formal publication of rules within the Register, all of whom were aware of the publication, and none of whom requested a public hearing, or inquired about the way to which to request a public hearing outside of the posted date, given that it was impossible to do so as stated in the publication itself. While some individuals did submit formal comments, they were discussed with the agency, and all issues were resolved to the satisfaction of both parties before moving forward with the submission for final approval. No request for a public hearing or an exception to the public hearing date procedures was discussed or requested by any individual.

Under G.S. 150B-18, a rule is not valid unless it is adopted in substantial compliance. The agency does believe that given its extensive communication with stakeholders, industry, and the public met the standard for substantial compliance for all the reasons detailed above, and in particular due to their attention to public notice outside of the Register publication and their outreach to interested parties prior to and during the entire rule making process, that compliance has been met. There was no attempt to circumvent the process, and the public hearing date was simply a typographical error. The public was well aware of the rule making process, the changes that were being proposed, submitted comments, and there was never any request or expression of interest in a public hearing.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .0503

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

What type of license are you requiring in (a)? Please remember rule titles are not used when interpreting a rule. – Changes made.

In (a), does the Commissioner or the Board set this requirement? Since you are using the language “the Commissioner shall require” is the Board delegating this authority? – Changes made.

In (b), what are the “activities” you are referring to? – Changes made.

In (c), what is “Adoption by Reference” and why is it in all caps? Did you mean incorporation by reference pursuant to 150B-21.6? If so, in line 8, replace “adopts” with “incorporates”. You don’t need to add the title “Incorporation by Reference”, just implement the requirements of 150B-21.6 into the rule. – Changes made.

In line 8, add a comma after “reference”. – Changes made.

In line 11, add “and editions” after “amendments”. – Changes made.

In line 12, I’ve been unable to access the materials on the website, www.gpoaccess.gov/cfr/index.html, with three different computers/devices. How do you ensure that the materials are accessible to the regulated public? – Changes made.

*In (d), does “noncertified” mean the same as non-licensed? Consider adding “licensed” before “pesticide”. – **Response below.***

Noncertified is more appropriate in this circumstance due to the possibility that an individual could hold a license, but not be certified in the category for the application at issue.

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

In (d), please consider restructuring this section to be clear and unambiguous. Here are some suggestions: In (1), line 14, delete “requirements for the” and add “shall:” at the end. – Changes made.

In (A), line 15, delete “the supervising pesticide applicator must”. What is the meaning of “practical”? – Changes made.

In line 16, add a comma after “state”. – Changes made.

*In line 17 and elsewhere, why is “and labeling” necessary? Is this in addition to the actual “label”? – **Response below.***

In this context, ‘label’ and ‘labeling’ refer to two different applications, as defined in G.S. 143-460(19-20).

In (B), delete “the supervising pesticide applicator must”. Add a comma after “category” and after “.0505”. Add “Rule” before “02”. – Changes made.

Delete everything in line 20. Begin line 21 by adding “(C)”. Add a colon after “pesticide” on line 22. – Changes made.

On line 23, replace “(A)” with “(1)” and indent “(1)” inside of “(C)”. – Changes made.

The new “(1)” will say “the non-certified applicator has satisfied the qualification requirements under Paragraph (e) of this Rule;” – Changes made.

*Also, Paragraph (e) only requires that “one of the following qualifications” are met. This seems to be conflicting and it’s unclear as to what is required under (e). – **Changes made, response below.***

This language mirrors the EPA utilized language in the worker protection standards, and thus is consistent and recognizable to the regulated public.

In line 24, delete “including the following:”. Add “(2)” before “the noncertified” and move “(2)” under the new “(1)”. – Changes made.

In line 26, delete “and” and add “(3)” before “the noncertified” and move “(3)” under the new “(2)”. Punctuate “(3)” with a semicolon. – Changes made.

In (3), lines 29-31, delete all of the text. – Changes made.

In line 32, replace “(A)” with “(4)”. Delete “The supervising pesticide applicator must” and start “(4)” with “ensure...” and punctuate it with a semicolon. – Changes made.

In line 34, replace “(B)” with “(5)”. Start “(5)” with “where...” and punctuate it with a semicolon. – Changes made.

On pg. 2, line 3, replace “(C)” with “(6)”. Delete “The supervising pesticide applicator must” and start “(6)” with “provide...” and punctuate it with a semicolon. In lines 8-9, replace “as well as that” with “and”. – Changes made.

In line 11, replace “(D)” with “(7)”. Delete “The supervising pesticide applicator must” and start “(7)” with “ensure...” and punctuate it with a semicolon. – Changes made.

In line 16, replace “(E)” with “(8)”. Delete “The supervising pesticide applicator must” and start “(8)” with “ensure...” and punctuate it with a semicolon. – Changes made.

In line 19, replace “(F)” with “(9)”. Delete “The supervising pesticide applicator must” and start “(9)” with “be physically...” and punctuate it with a semicolon. – Changes made.

In line 21, replace “(G)” with “(10)”. Delete “The supervising pesticide applicator must” and start “(10)” with “create and...” and punctuate it with a semicolon. – Changes made.

In line 23, is “completed” necessary since only “verified” is used later in the Rule? – Changes made.

In (f), line 35, delete “and their subsections” and delete “detailed” if they are not necessary. – Changes made.

*On pg. 3, line 1, and elsewhere, how will the Board determine what “noncertified applicators can understand”? – **Response below.***

This language mirrors the same language used by EPA throughout the certification training in 40 CFR 170 and 40 CFR 171. This remains consistent with Part (f)(2) of this Rule, which also utilizes these standards.

In (2), line 3, consider adding “at least” after “meet”. – Changes made.

In (3), lines 10-11, add a comma after “environment” and delete “making”. – Changes made.

In (E), line 20, replace the comma after “techniques” with a semicolon and delete “including that noncertified applicators must be instructed”. In line 22, add a semicolon after “water”. Delete “and that noncertified applicators must also be” to replace it with “and”. – Changes made.

On pg. 4, in (O), add “the” at the beginning and add a comma after “pesticide” (line 6). – Changes made.

In (P), line 8, add “the” at the beginning. – Changes made.

In (Q), replace “illness” with “illnesses;”. – Changes made.

In (V), line 20, add a semicolon after “site”. In lines 22-23, delete “and these instructions”. – Changes made.

In (X), line 30, add a comma after “condition”. – Changes made.

In (Y), line 35, add a comma after “persons”. – Changes made.

On pg. 5, line 4, replace “as outlined in the following section and subsection” with “as follows:” – Changes made.

In line 10, consider replacing “appropriate” with “corresponding”. – Changes made.

In (A), line 11, the Register says “Subparagraph” but “Paragraph” is used here. Which is intended? – Changes made.

In (B), lines 17-18, add a comma after “.501” and replace “at” with “in” (line 18). – Changes made.

In line 23, add a comma after “conducted”. – Changes made.

In the History Note, how does G.S. 143-460(30) provide authority for this Rule? – Changes made.

Also, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .0504

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (1)(a) and (b), capitalize “crop” and “livestock” at the beginning of each section. – Changes made.

In (a), replace “is the category applied to” with “means” (line 7) and delete “as well as on” (line 10). In line 8, add “the” before “production”. – Changes made.

In (b), replace “is the category applied to” with “means”. – Changes made.

*In line 14, where is your statutory authority to regulate veterinarians? – **Response below.***

The use of the language here is of a clarifying nature, in that the application of pesticides in this fashion by veterinarians has traditionally not been regarded within the practice of veterinary medicine regulated by the North Carolina Veterinary Board. In a case in which a practicing veterinarian is applying pesticides outside of their veterinary practice, then they must be licensed and therefore adhere to the rules within the section, examples would include veterinarians treating structures and fields, not the animals themselves.

In (i), line 18, replace “this subcategory applies to the application of pesticides to” with “means”. – Changes made.

In (ii), line 21, replace “this subcategory applies to the application of pesticides to” with “means”. – Changes made.

The Administrative Rule Style Guide prohibits defining a term using that term. You can’t use the word “poultry” to define “poultry”. – Changes made.

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

In (iii), line 23, replace “this subcategory applies to the application of pesticides to” with “means”. – Changes made.

In (2), line 25, delete “category of pesticide applicators”. – Changes made.

In (3), line 27, delete “the category of pesticide applicators”. – Changes made.

In (4), line 31, delete “the category of pesticide applicators”. – Changes made.

In line 32, please delete or define “purposefully.” – Changes made.

In (5), lines 36- 37, delete “the category of pesticide applicators.” – Changes made.

In (6), line 41, delete “the category of”. – Changes made.

In (7), line 48, delete “the category of persons”. – Changes made.

In (8), line 50, delete “the category of”. – Changes made.

In (9), line 53, delete “the category of”. – Changes made.

In line 54, add a comma after “pesticides”. – Changes made.

In line 56, add a semicolon after “products”. Delete “and those”. – Changes made.

In (10), lines 62-63, delete “the category of pesticide applicators”. – Changes made.

In (11), line 71, delete “the category of individuals”. In line 73, add a comma after “treated”. – Changes made.

In (12), line 77, delete “individuals”. In line 78, what is “growing media”? – Changes made.

In (15), add “Rule” before citing each of the rules. – Changes made.

In the History Note, how does G.S. 143-437 not provide authority for this Rule? Also, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .0505

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), what is “Adoption by Reference” and why is it in all caps? Did you mean incorporation by reference pursuant to 150B-21.6? If so, in line 4, replace “adopts” with “incorporates”. – Changes made.

In line 4, add a comma after “reference”. – Changes made.

In line 7, add “and editions” after “amendments”. – Changes made.

In line 7, I’ve been unable to access the materials on the website, www.gpoaccess.gov/cfr/index.html, with three different computers/devices. How do you ensure that the materials are accessible to the regulated public? – Changes made.

*In line 9 and elsewhere, what is the definition of “classifications” as it’s used in this context? – **Response below.***

“Classifications” are groups organizing the various (and often similar) “certifications.” For example, the classification of “pesticide applicators and public operators utilizing ground equipment” includes the certifications such as “forest pest control” and “ornamental and turf pest control.”

*In line 11 and elsewhere, what is meant by “shall be created” as it’s used in this context? Does this mean that these categories can’t be used in North Carolina? – **Response below.***

Yes, these categories are federally recognized, but are not created or allowed in North Carolina.

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Rules Review Commission Counsel
Sent September 19, 2024

In (2), lines 12-13, add a comma after “subclassifications”, after “Rule”, and after “Carolina”. – Changes made.

In line 22 and elsewhere, is “further” necessary? If not, please delete it. – Changes made.

In the History Note, how does G.S. 143-437 not provide authority for this Rule? – Changes made.

G.S. 143-460(33) is the definition of “Public Operator”. How does this statute provide authority for this Rule? – Changes made.

Also, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .0506

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (4), line 24, capitalize “service”. – Changes made.

In line 27, add a semicolon to the end of the line. – Changes made.

On pg. 2, (a), consider moving “at least one county environmental health specialist must be licensed” to the beginning of (a) for a more active voice and for consistency. – Changes made.

In (c), lines 7-8, add a comma after “district” on both lines. – Changes made.

In the History Note, how does G.S. 143-437 not provide authority for this Rule? - Changes made.

*G.S. 143-455 and 143-460(27) are listed in the Register, but not here. Is that what was intended? How do these statutes provide authority for this Rule? – **Response below.***

These are not required.

Also, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .0507

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In line 5, why is “may” used and not “shall”? – Changes made.

In the History Note, how does G.S. 143-437 not provide authority for this Rule? Also, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .0512

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In the History Note, how does G.S. 143-437 not provide authority for this Rule? – Changes made.

How does G.S. 143-452(f) and 143-455(c) provide authority for this Rule? – Changes made.

Also, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .0522

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In line 4, do you mean “may” or “shall”? – **Response below.***

For this line, it should be ‘may,’ because recertifying using CEU classes is an option, they also have the option to go to class, or retest.

In line 7, add a period after “U” and after “S”. – Changes made.

*Also, what is the process for Board approval? Is this set forth in another rule? – **Response below.***

The process for the Board’s approval for continuing training is approved based upon the standards set forth in 40 CFR 171.103 and 40 CFR 171.107.

In line 9, there appears to be an extra space between “40 CFR”. – Changes made.

In lines 34-35, add a comma after “categories” and after “Rule”. – Changes made.

*In line 11, what is the process for Board approval? Is this set forth in another Rule? – **Response below.***

The process for the Board’s approval for continuing training is approved based upon the standards set forth in 40 CFR 171.103 and 40 CFR 171.107.

In line 33, do you mean “may” or “shall?” – Changes made.

On pg. 2, line 12, do you mean “may” or “shall?” – Changes made.

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

*In line 14, what materials have been approved by the Board? Is this in another Rule?
- Changes made.*

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .0531

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), what is “Adoption by Reference” and why is it in all caps? Did you mean incorporation by reference pursuant to 150B-21.6? If so, in line 4, replace “adopts” with “incorporates”. – Changes made.

In line 4, add a comma after “reference”. – Changes made.

In line 7, add “and editions” after “amendments”. – Changes made.

In line 7, I’ve been unable to access the materials on the website, www.gpoaccess.gov/cfr/index.html, with three different computers/devices. How do you ensure that the materials are accessible to the regulated public? - Changes made.

In (b), line 10, add a comma before “as” and before “must”. – Changes made.

In line 14, add a comma after “biology”. – Changes made.

In line 15, add a semicolon after “control” and delete “as well as”. – Changes made.

In line 16, add a semicolon after “treated” and after “pets”. – Changes made.

In line 18, add a comma after “anatomy”, delete “and”, and add a comma after “physiology”. – Changes made.

In line 19, add a semicolon after “each” and delete “as well as”. – Changes made.

In line 20, add a semicolon after “treatment” and delete “and”. – Changes made.

In line 21, replace “as well as” with “and”. Add a semicolon after “each” and add “and” before “proper”. – Changes made.

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

In lines 25-26, add a comma after “housed” and add a semicolon after “pests”. Also, delete “as well as the required knowledge which shall include” and add a semicolon after “potential”. – Changes made.

In lines 30-31, add a semicolon after “pests”. Also, delete “as well as the required knowledge of” and add a semicolon after “potential”. – Changes made.

In lines 34-35, add a semicolon after “pests”. Also, delete “as well as the required knowledge of” and add a semicolon after “potential”. – Changes made.

In the History Note, how does G.S. 143-437 not provide authority for this Rule? – Changes made.

How does G.S. 143-460 and 143-455 provide authority for this Rule? – Changes made.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1002

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In line 5, add a semicolon after “15”. – Changes made.

In line 6, add “and” before “rules”, delete “and regulations”, and add a semicolon after “thereunder”. – Changes made.

In line 6, please provide the full citation for the “Federal Aviation Regulations” you are referring to. – Changes made.

In line 7, delete “a provision of” and make “Rules” lowercase. – Changes made.

In (b), line 9, add a comma after “thereunder”. – Changes made.

In line 10, what is the meaning of “designated to another person(s) this Section”? Please be specific and cross-reference the Rule or section you are referring to. What is the authority that allows this designation? – Changes made.

In line 13, consider replacing “show” with “contain”. – Changes made.

In line 29, add a comma after “operation”. – Changes made.

*In line 30, consider replacing “show” with “contain”. – **Response below.***

Do not see this within the rule language, is this a duplication from line 13?

In lines 30-32, consider: “. . . using the same pesticide, or another pesticide compatible with the previous pesticide, according to the manufacturer’s recommendations, was previously used in the equipment and will not result in any adverse effects, or created

Travis Wiggs
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Sent September 19, 2024

by the drainage or disposal of waste materials, and will not create an adverse effect as defined in this Section”. – Changes made.

In line 33, what are you referring to that is “defined in this Section”? Please be more specific and cross-reference if necessary. – Changes made.

In line 37, delete the comma after “suited”. – Changes made.

On pg. 2, line 3, add a comma after “dripping” and “backflow”. Delete “and”. – Changes made.

In line 7, add a comma after “tank”, delete “or”, and add a comma after “spray”. – Changes made.

In (l), how soon after the emergency or accidental release shall the Secretary be notified? – Changes made.

In the History Note, how does G.S. 143-147 not provide authority for this Rule? – Changes made.

How does G.S. 143-463 provide authority for this Rule? – Changes made.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1003

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In the History Note, add "Amended Eff." followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1102

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (5), add "02 NCAC 09L" after "Rule". – Changes made.

In the History Note, add "Amended Eff." followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

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Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1103

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), what is “Adoption by Reference” and why is it in all caps? Did you mean incorporation by reference pursuant to 150B-21.6? If so, in line 4, replace “adopts” with “incorporates”. – Changes made.

In line 8, add “and editions” after “amendments”. – Changes made.

In line 12, I’ve been unable to access the materials on the website, www.gpoaccess.gov/cfr/index.html, with three different computers/devices. How do you ensure that the materials are accessible to the regulated public? – Changes made.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
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Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1105

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), what is “Adoption by Reference” and why is it in all caps? Did you mean incorporation by reference pursuant to 150B-21.6? If so, in line 4, replace “adopts” with “incorporates”. – Changes made.

In line 9, add “and editions” after “amendments”. – Changes made.

In line 12, I’ve been unable to access the materials on the website, www.gpoaccess.gov/cfr/index.html, with three different computers/devices. How do you ensure that the materials are accessible to the regulated public? – Changes made.

In (b), it’s unclear what “provisions of recordkeeping” you are referencing. Is it only the provisions contained in this Rule? Please be specific and cross reference any other applicable rules if necessary. – Changes made.

In (b), (1), is the sentence “For each...as follows” necessary? It appears to be repeated in the next sentence and is duplicative. – Changes made.

In (A), (B), (C), and (D), add “CFR” after “with” and “in”. – Changes made.

In (c), line 20, add “or she” after “he”. – Changes made.

*In (c), line 19 says the certified applicator “shall be available to the non-certified applicator” but “direct supervision” is required elsewhere in the Rule. Please clarify. – **Response below.***

Direct supervision does not require physical presence at the site.

In (d), line 24, add a comma after “site”. – Changes made.

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

In (d)(1) and (2), under what circumstances will the label suffice? How is this determination made? What factors are considered? – Changes made.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

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Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1107

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*What is the “emergency certification procedure” and where is it documented? What is your agency’s authority to utilize this procedure? – **Changes made, response below.***

This emergency certification procedure is set forth in 02 NCAC 09L .1104. The Board’s authority to regulate restricted use pesticides is set forth in G.S. 143-440.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

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Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1108

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (c), add a comma after “fumigation” in line 8, delete “or”, and add a comma after “fumigation” in line 9. – Changes made.

In (c), line 10, consider adding “corresponding” before the second “subclass”. – Changes made.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1109

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In the History Note, how does G.S. 143-437 and 143-453 not provide authority for this Rule? – Changes made.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1303

DEADLINE FOR RECEIPT: Thursday, October 3, 2024.

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*In line 4, what is meant by “may be made available”? – **Response below.***

Made available has it’s plain and ordinary meaning, simply that it is accessible to the individual.

*In line 4, what is meant by “under the supervision”? Is this the same as “under the direction and supervision” in line 6? Please clarify and be consistent. – **Changes made, response below.***

Changed to be consistent with 02 NCAC 09L .1105.

*In line 10, what is a “structural pest control licensee”? Also, add a comma after “licensee”. – **Response below.***

These are license levels issued by the Structural Pest Control Committee (Structural Pest Control Act of North Carolina of 1955, Chapter 106, Article 4C), and are commonly understood terms within the regulated industry.

*In (b), what exemption applies? Please connect (b) to what’s described in (a) if that’s what is intended. – **Changes made.***

*In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – **Changes made.***

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1305

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (3), please add commas as follows: “, as set out in Rule .1302 of this Section, or noncertified employees,...” – Changes made.

In (4), in line 10, add a comma after “applicator”. – Changes made.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

Travis Wiggs
Rules Review Commission Counsel
Sent September 19, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Pesticide Board

RULE CITATION: 02 NCAC 09L .1402

DEADLINE FOR RECEIPT: Thursday, October 3, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In line 4, add a comma after “equipment” and after “years”. – Changes made.

In line 5, consider replacing “show” with “contain”. – Changes made.

In the History Note, add “Amended Eff.” followed by the desired date. The Register says October 1, 2024, but the earliest potential date is November 1, 2024. – Changes made.

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

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Rules Review Commission Counsel
Sent September 19, 2024

02 NCAC 09L .0503 is amended with changes as published in 38:23 NCR 1483-1486 as follows:

02 NCAC 09L .0503 PESTICIDE APPLICATORS

(a) ~~The Commissioner shall require the licensing of at~~At least one person at each business location shall hold a pesticide applicator license, and who shall be responsible for the application of pesticides for routine pest control situations.

(b) The person licensed as the pesticide applicator shall supervise and guide ~~the activities of~~ all personnel applying pesticides from the business location of the licensee.

(c) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~incorporates by ~~reference~~reference, for all Pesticide Applicators, Part 171.201 "Supervision of Noncertified Applicators", of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B –Certification Requirements for Applicators of Restricted Use Pesticides.", including subsequent ~~amendments,~~amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office ~~website.~~website, www.gpoaccess.gov/cfr/index.html.

(d) The requirements for direct supervision of noncertified applicators by pesticide applicators are as follows:

(1) The ~~requirements for the~~ supervising pesticide ~~applicator:~~applicator shall:

(A) ~~the supervising pesticide applicator must~~ have ~~a practical~~ knowledge of applicable federal, ~~state~~state, and tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of said pesticide by noncertified applicators; and

(B) ~~the supervising pesticide applicator must~~ be certified in each ~~category~~category, as set forth in Rule 02 NCAC [09L .0505]09L .0505, applicable to the supervised pesticide use.

~~(2) (C)~~ ~~Requirements for the noncertified applicator include that the supervising pesticide applicator must~~ ensure that each noncertified applicator using any pesticide under his or her direct supervision meets all of the following requirements before using any ~~pesticide:~~pesticide:

~~(A)~~ (1) ~~The~~the non-certified applicator has satisfied one of the qualification requirements under Paragraph (c) of this ~~Rule;~~ Rule; ~~including the following:~~

(2) the noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides;

(3) ~~and~~the noncertified applicator has met the minimum age required to use pesticides under the supervision of a pesticide applicator, as well as that a noncertified applicator must be at least 18 years ~~old.~~old;

~~(3) Use specific conditions that must be met for a noncertified applicator to use any pesticide. The supervising pesticide applicator must ensure that all the following requirements are met before allowing a noncertified applicator to use any pesticide under his or her direct supervision.~~

- 1 ~~(A)~~ (4) ~~The supervising pesticide applicator must~~ ensure that the noncertified applicator
2 has access to the applicable product labeling at all times during its ~~use.~~ use;
- 3 ~~(B)~~ (5) ~~Where~~ where the labeling of a pesticide product requires that personal protective
4 equipment be worn for mixing, loading, application, or any other use activities, the
5 supervising pesticide applicator must ensure that any noncertified applicator has clean,
6 labeling-required personal protective equipment in proper operating condition and that the
7 personal protective equipment is worn and used correctly for its intended
8 ~~purpose.~~ purpose;
- 9 ~~(C)~~ (6) ~~The supervising pesticide applicator must~~ provide to each noncertified
10 applicator instructions specific to the site and pesticide used, and these instructions must
11 include labeling directions, precautions, and requirements applicable to the specific use
12 and site, and how the characteristics of the use site (e.g., surface and ground water,
13 endangered species, local population) and the conditions of application (e.g., equipment,
14 method of application, formulation) might increase or decrease the risk of adverse effects,
15 ~~as well as that~~ and the supervising pesticide applicator must provide this information in a
16 manner that the noncertified applicator can ~~understand.~~ understand;
- 17 ~~(D)~~ (7) ~~The supervising pesticide applicator must~~ ensure that before each day of use,
18 equipment used for mixing, loading, transferring, or applying pesticides is in proper
19 operating condition as intended by the manufacturer and can be used without risk of
20 reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the
21 ~~environment.~~ environment;
- 22 ~~(E)~~ (8) ~~The supervising pesticide applicator must~~ ensure that a means to immediately
23 communicate with the supervising pesticide applicator is available to each noncertified
24 applicator using any pesticide under his or her direct ~~supervision.~~ supervision;
- 25 ~~(F)~~ (9) ~~The supervising pesticide applicator must~~ be physically present at the site of the
26 use being supervised when required by the product ~~labeling.~~ labeling;
- 27 ~~(G)~~ (10) ~~The supervising pesticide applicator must~~ create and verify the existence of the
28 records required by Paragraph (g) of this Rule of the qualification method being
29 ~~completed/verified.~~ verified;

30 (e) Before any noncertified applicator uses any pesticide under the direct supervision of a pesticide applicator, the
31 supervising pesticide applicator must ensure that the noncertified applicator has met at least one of the following
32 qualifications: requirements in Paragraph (e):

- 33 (1) the noncertified applicator has been trained in accordance with Paragraph (f) of this Rule within the
34 last 12 months;
- 35 (2) the noncertified applicator has met training requirements for an agricultural handler under 40 CFR
36 170.501 within the last 12 months;

1 (3) the noncertified applicator has met the requirements established by a certifying authority that meet
2 or exceed the standards in Subparagraph (f)(3) of this Rule; or

3 (4) the noncertified applicator is currently a certified applicator but is not certified to perform the type
4 of application being conducted or is not certified in North Carolina.

5 (f) Guidelines for the noncertified applicator training program ~~[and their subsections]~~ shall be ~~[detailed]~~ as follows.

6 (1) General noncertified applicator training must be presented to noncertified applicators orally from
7 written materials or audio visually. The information must be presented in a manner that the
8 noncertified applicators can understand. The person conducting the training must be present during
9 the entire training program and must respond to the noncertified applicators' questions.

10 (2) The person who conducts the training must meet at least one of the following criteria:

11 (A) be currently certified as a pesticide applicator;

12 (B) be currently designated as a trainer of certified applicators or pesticide handlers by EPA,
13 the certifying authority, or a state, tribal, or federal agency having jurisdiction; or

14 (C) have completed an EPA-approved pesticide safety train-the-trainer program for trainers of
15 handlers under 40 CFR part 170.

16 (3) The noncertified applicator training materials must include information on how the noncertified
17 applicators can protect themselves, other people, and the ~~[environment]~~ environment, before, during
18 and after ~~[making]~~ a pesticide application. The noncertified applicator training materials must
19 include, at a minimum, the following:

20 (A) potential hazards from toxicity and exposure that pesticides present to noncertified
21 applicators and their families, including acute and chronic effects, delayed effects, and
22 sensitization;

23 (B) routes through which pesticides can enter the body;

24 (C) signs and symptoms of common types of pesticide poisonings;

25 (D) emergency first aid for pesticide injuries or poisonings;

26 (E) routine and emergency decontamination procedures, including emergency eye flushing
27 ~~[techniques,]~~ techniques; ~~[including that noncertified applicators must be instructed]~~ that if
28 pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the
29 nearest appropriate location with clean ~~[water,]~~ water; ~~[and that noncertified applicators~~
30 must also be] and instructed to wash or shower with soap and water, shampoo hair, and
31 change into clean clothes as soon as possible;

32 (F) how and when to obtain emergency medical care;

33 (G) after working with pesticides, to wash hands before eating, drinking, using chewing gum
34 or tobacco, or using the toilet;

35 (H) wash or shower with soap and water, shampoo hair and change into clean clothes as soon
36 as possible after working with pesticides;

37 (I) potential hazards from pesticide residues on clothing;

- (J) wash clothes worn while working with pesticides before wearing them again and wash them separately from other clothes;
- (K) do not take pesticides or pesticide containers used at work to your home;
- (L) potential hazards to children and pregnant women from pesticide exposure;
- (M) remove work boots or shoes worn during a pesticide application before entering your home, and remove work clothes worn during a pesticide application and wash or shower before physical contact with children or family members;
- (N) how to report suspected pesticide use violations to the appropriate state or tribal agency responsible for pesticide enforcement;
- (O) the format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the licensed applicator to be physically present during the use of the [pesticide]pesticide, and information on personal protective equipment;
- (P) the need for, and appropriate use and removal of, personal protective equipment;
- (Q) how to recognize, prevent, and provide first aid treatment for heat-related [illness; illnesses];
- (R) safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup;
- (S) environmental concerns such as drift, runoff, and wildlife hazards;
- (T) restricted use pesticides may be used only by a pesticide applicator or by a noncertified applicator working under the direct supervision of a pesticide applicator;
- (U) the supervising pesticide applicator must be present at the site only when required by the product labeling;
- (V) the supervising pesticide applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used, and that these instructions must include labeling directions, precautions, and requirements applicable to the specific use and [site]site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population, and risks) and the conditions of application (e.g., equipment, method of application, formulation, and risk of adverse effects), [and these instructions] must be provided by the supervising pesticide applicator in a manner the noncertified applicator can understand;
- (W) the supervising pesticide applicator's responsibility to ensure that each noncertified applicator has access to the applicable product labeling at all times during its use;
- (X) the supervising pesticide applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling

1 required personal protective equipment in proper operating ~~condition~~ condition, and that
2 the personal protective equipment is worn and used correctly for its intended purpose;

3 (Y) the supervising pesticide applicator's responsibility to ensure that before each day of use,
4 equipment used for mixing, loading, transferring, or applying pesticides is in proper
5 operating condition as intended by the manufacturer, and can be used without risk of
6 reasonably foreseeable adverse effects to the noncertified applicator, other
7 ~~persons~~ persons, or the environment; and

8 (Z) the supervising pesticide applicator's responsibility to ensure that a means to immediately
9 communicate with the supervising pesticide applicator is available to each noncertified
10 applicator using any pesticide under his or her direct supervision.

11 (g) All applicators must adhere to the provisions of recordkeeping ~~as outlined in the following section and~~
12 ~~subsection;~~ as follows:

13 (1) Before allowing a noncertified applicator to make any pesticide application under their direct
14 supervision, the supervising pesticide applicator must create or verify the existence of records
15 documenting that each noncertified applicator has the qualifications required in
16 ~~paragraph~~ Paragraph (e) of this section. For each noncertified applicator, the records must
17 contain the information ~~appropriate~~ corresponding to the method of qualification.

18 (A) If the noncertified applicator was trained in accordance with ~~Paragraph (e)~~
19 ~~(1)~~ Subparagraph (e)(1) of this Rule, the record must contain all of the following
20 information: the noncertified applicator's printed name and signature; the date
21 the training requirement in Paragraph (d) of this Rule was met; the name of the
22 person who provided the training; and the title or a description of the training
23 provided.

24 (B) If the noncertified applicator was trained as an agricultural handler under ~~40 CFR~~
25 ~~170.501~~ 40 CFR 170.501, in accordance with Subparagraph (e)(2) of this Rule,
26 the record must contain all of the information required ~~at~~ in 40 CFR 170.501
27 (d)(1).

28 (C) If the noncertified applicator qualified by satisfying the requirements established
29 by the certifying authority, as described in Subparagraph (e)(3) of this Rule, the
30 record must contain the information required by the certifying authority.

31 (D) If the noncertified applicator is an otherwise certified applicator who is not
32 certified to perform the type of application being ~~conducted~~ conducted, or not
33 certified in the jurisdiction where the use will take place, as described in
34 Subparagraph (e)(4) of this Rule, the record must include all of the following
35 information: the noncertified applicator's name; the noncertified applicator's
36 certification number; the expiration date of the noncertified applicator's
37 certification; and the certifying authority that issued the certification.

(2) The supervising pesticide applicator must create or verify the existence of the record containing the information in Subparagraph (g)(1) of this Rule before allowing the noncertified applicator to use any pesticides under his or her direct supervision.

(h) The pesticide applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (g)(1) of this Rule at the supervising pesticide applicator's principal place of business for three years from the date the noncertified applicator uses the pesticide.

History Note: Authority G.S. 143-452; 143-453; 143-458; ~~143-460(30); 143-460(29).~~
Eff. February 1, 1976;
Readopted Eff. August 1, 2020. ~~August 1, 2020;~~
Amended Eff. November 1, 2024.

02 NCAC 09L .0504 is amended with changes as published in 38:23 NCR 1486-1488 as follows:

02 NCAC 09L .0504 DEFINITIONS

The following definitions apply to ~~Rules .0505, .0506, and .0507 of this Section:~~pesticide applicators:

- (1) ~~"Agricultural pest control":~~ "Agricultural pest control" and its subcategories shall apply to the following:
 - (a) ~~Plant. Includes~~Crop pest control ~~[is the category applied to]~~ means pesticide applicators using or supervising the use of pesticides in the production of agricultural crops, including 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.~~Livestock pest control ~~[is the category applied to]~~ means. ~~Includes~~ pesticide applicators using or supervising the use of pesticides on animals, ~~including, but not limited to, the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock,~~ and to places where animals are confined. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides are included in this category. The following subcategories are defined as follows:
 - (i) livestock: ~~[is the category applied to]~~ means the application of pesticides to domesticated animals being raised as an agricultural commodity or for the purpose of producing an ag commodity;
 - (ii) poultry: ~~[is the category applied to]~~ means the application of pesticides to poultry domestic fowl [or poultry operations;] and to the areas in which they are confined; and
 - (iii) small animal: ~~[is the category applied to]~~ means the application of pesticides to pets or the areas where they are confined.
- (2) "Forest pest control" ~~includes~~ means ~~[the category of]~~ pesticide applicators using or supervising the use of pesticides in forests, forest nurseries, and forest ~~seed producing areas.~~ seed production.
- (3) "Ornamental and turf pest control" ~~includes~~ means ~~[the category of]~~ pesticide applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental ~~trees, shrubs, flowers, and turf plants and turf.~~
- (4) ~~"Seed treatment" includes pesticide applicators using or supervising the use of pesticides on seeds.~~ "Aquatic pest control" means ~~[the category of 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 Items (6) and (7) of this Rule.
- (5) ~~"Aquatic pest control" includes pesticide applicators using or supervising the use of any pesticide intended to be applied to standing or running water, excluding applicators engaged in public health related activities included in Item (7) of this Rule.~~ "Right-of-way pest control" means ~~[the~~

- 1 ~~category of pesticide applicators~~ using or supervising the use of pesticides in the maintenance of
2 public roads, electric powerlines, pipelines, railway rights-of-way, or other similar areas.
- 3 (6) "Right of way pest control" includes pesticide applicators using or supervising the use of
4 pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights of-
5 way, or other similar areas. "Public health pest control" means ~~the category of~~ state, tribal,
6 federal, or other governmental employees and contractors using or supervising the use of
7 pesticides in government sponsored public health programs for the management and control of
8 pests having medical and public health importance.
- 9 (7) "Public health pest control" includes primarily, but is not limited to, state, federal, or other
10 governmental employees using or supervising the use of pesticides in public health programs for
11 the management and control of pests having medical and public health importance. "Commercial
12 Public Health pest control" means ~~the category of persons~~ using or supervising the use of
13 pesticides commercially for the management and control of pests having medical and public health
14 importance.
- 15 (8) "Regulatory pest control" ~~includes~~ means ~~the category of~~ state, tribal, federal, or other
16 governmental employees who use or supervise the use of pesticides in government-sponsored
17 programs for the control of regulated pests.
- 18 (9) "Demonstration and research pest control" ~~includes~~ means ~~the category of~~ the following:
19 (a) persons who demonstrate to the public the use and techniques of application of
20 ~~pesticides~~ pesticides, or supervise such demonstration, including extension specialists and
21 county agents; commercial representatives demonstrating pesticide ~~products, products; and~~
22 ~~these~~ persons demonstrating methods used in public programs; and
23 (b) persons who use or supervise the use of pesticides while conducting field research with
24 pesticides. This includes state, federal, commercial, and other persons conducting field
25 research on or utilizing pesticides.
- 26 (10) "Wood treatment" ~~includes pesticide applicators using or supervising the use of restricted use~~
27 ~~pesticides in wood preservation and wood products treatment.~~ "Seed treatment" means ~~the~~
28 ~~category of pesticide applicators~~ using or supervising the use of pesticides on seeds in seed
29 treatment facilities.
- 30 (11) "Soil and growing media fumigation pest control" includes individuals using or supervising the use
31 of any fumigant pesticide injected or applied to soils or growing media. This category excludes
32 fumigation of raw agricultural commodities and all structural fumigation such as:
33 (a) — boxcars;
34 (b) — warehouses;
35 (c) — tractor trailers; and
36 (d) — grain bins.

- 1 "Wood treatment" means ~~the category of individuals~~ applying pesticides to wood products such
2 as crossties, poles, logs, shingles, posts or other wood products that are not part of a structure
3 when ~~treated~~ treated, and are or will be exposed to insects, fungi, marine pests, or weather. This
4 category does not include treatment for the control of termites and other wood destroying
5 organisms in houses or in an area as pretreatment prior to the construction of a structure.
- 6 (12) "Growing media" includes a substance or substances through which roots grow and extract water
7 and nutrients. "Soil and growing media fumigation pest control" means ~~individuals~~ using or
8 supervising the use of any fumigant pesticide injected or applied to soils or growing media.
9 Growing media is defined below in Rule 02 NCAC 09L .0504(14). This category excludes
10 fumigation of raw agricultural commodities and all structural fumigation such as:
- 11 (a) boxcars;
12 (b) warehouses;
13 (c) tractor trailers; and
14 (d) grain bins.
- 15 (13) "Aerial pest control" means the category of commercial applicators who use or supervise the use
16 of pesticides applied by fixed or rotary wing aircraft.
- 17 (14) "Growing media" means a substance or substances through which roots grow and extract water
18 and nutrients.
- 19 (15) "Noncertified applicator" means any person who does not meet the requirements set forth in
20 Rule 02 NCAC 9L .0503 to be a pesticide applicator, but who has met the requirements set forth
21 in Rule 02 NCAC 09L .0503(d)(2) , and who is using a pesticide under the direct supervision of
22 a pesticide applicator in accordance with Rule 02 NCAC 9L .0503(c).

23

24 History Note: Authority G.S. 143-437; 143-452(d); 143-460(29); 40 C.F.R. 171.3;
25 Eff. February 1, 1976;
26 Amended Eff. June 1, 2016; November 1, 1984; August 1, 1982; October 27, 1979;
27 Readopted Eff. ~~August 1, 2020~~ August 1, 2020;
28 Amended Eff. November 1, 2024.

02 NCAC 09L .0505 is amended with changes as published in 38:23 NCR 1488-1489 as follows:

02 NCAC 09L .0505 CLASSIFICATIONS

(a) ~~ADOPTION BY REFERENCE:~~ The North Carolina Pesticide Board hereby ~~adopts~~ incorporates by ~~reference~~ reference, for all Pesticide Applicators, Part 171.101 "Commercial applicator certification categories" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B—Certification Requirements for Applicators of Restricted Use Pesticides," including subsequent ~~amendments~~ amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office ~~website, www.gpoaccess.gov/cfr/index.html,~~ website. The following classifications shall apply in North Carolina:

(1) neither the sodium cyanide predator control nor the sodium fluoroacetate predator control categories shall be created in North Carolina;

(2) additional classifications and their respective ~~subclassifications~~ subclassifications, not established by the federal guidelines referenced in Paragraph (a) of this ~~Rule~~ Rule, that shall be created in North ~~Carolina~~ Carolina, are as follows:

(A) commercial public health pest control;

(B) wood treatment;

(C) livestock pest control, which shall include the subsections of livestock; poultry; and small animals.

(b) The following classifications and subclassifications shall apply to the licensing of pesticide applicators:

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

~~(A)(a)~~ agricultural pest control; agricultural pest control, including the subsections of crop pest control and livestock pest control (including ~~further~~ subcategories of livestock, poultry, and small animals);

~~(B)(b)~~ forest pest control;

~~(C)(c)~~ ornamental and turf pest control;

~~(D)(d)~~ aquatic pest control;

~~(E)(e)~~ right-of-way pest control;

~~(F)(f)~~ public health pest control;

~~(g)~~ regulatory pest control;

~~(G)~~ commercial public health pest control;

~~(h)~~ demonstration and research pest control;

~~(i)~~ agricultural pest control;

(A) 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;~~
(H) ~~regulatory pest control;~~
(i) ~~seed treatment;~~
(I) ~~demonstration and research pest control, with the subsections of agricultural crop pest control; agricultural livestock pest control (including further subcategories of livestock, poultry, and small animals); forest pest control; ornamental and turf pest control; aquatic pest control; right-of-way pest control; commercial public health pest control; public health pest control; regulatory pest control; wood treatment; spoil and growing media fumigation pest control; aerial pest control;~~
(j) ~~wood treatment; and~~
(J) ~~seed treatment;~~
(k) ~~soil and growing media fumigation pest control;~~
(K) ~~wood treatment;~~
(L) ~~soil and growing media fumigation pest control;~~
(M) ~~aerial pest control;~~
(2) pesticide applicators and public operators utilizing aerial equipment:
(A)(a) ~~agricultural pest control: plant; crop pest control;~~
(B)(b) ~~forest pest control;~~
(C)(c) ~~ornamental and turf pest control;~~
(D)(d) ~~aquatic pest control;~~
(E)(e) ~~right-of-way pest control;~~
(F)(f) ~~public health pest control;~~
(g) ~~regulatory pest control; and~~
(G) ~~commercial public health pest control;~~
(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.~~

(H) regulatory pest control;

(I) demonstration and research pest control, which shall include the subsections of agricultural pest control; crop pest control; forest pest control; ornamental and turf pest control; aquatic pest control; right-of-way pest control; regulatory pest control; public health pest control; and aerial pest control;

(J) aerial pest control.

*History Note: Authority G.S. 143-437; 143-452(d); 143-460(29); 143-460(33);
Eff. February 1, 1976;
Amended Eff. June 1, 2016; November 1, 1984; August 26, 1976;
Readopted Eff. August 1, 2020; August 1, 2020;
Amended Eff. November 1, 2024.*

02 NCAC 09L .0506 is amended with changes as published in 38:23 NCR 1489-1490 as follows:

02 NCAC 09L .0506 GOVERNMENTAL WORKERS

Persons in job classifications in the government unit or agencies listed below are required to be licensed as public operators:

- (1) North Carolina Department of Transportation, division of highway (14 divisions);
- (2) United States Department of Agriculture, Animal and Plant Health Inspection Service:
 - (a) staff specialist for witchweed control,
 - (b) assistant district director,
 - (c) work unit supervisors,
 - (d) designated inspectors who supervise pesticide applications,
 - (e) witchweed methods development laboratory supervisor,
 - (f) witchweed methods development assistant laboratory supervisor;
- (3) North Carolina Department of Agriculture and Consumer Services plant industry division:
 - (a) plant pest administrator,
 - (b) entomological program specialist,
 - (c) plant pathologist,
 - (d) greenhouse manager,
 - (e) area supervisors,
 - (f) pest control specialists,
 - (g) all plant pest inspectors who have supervision of pesticide applications as part of their job assignments;
- (4) North Carolina Department of ~~Environment, Health, and Natural Resources, Forest Resources Division, Agriculture and Consumer Services, North Carolina Forest~~ [service] Service staff, as outlined in their job descriptions: pest control unit:
 - (a) ~~pest control foresters, foresters and forest technicians tasked with forest management duties such as writing, reviewing and approving herbicide application recommendations,~~ recommendations;
 - (b) ~~pest control staff forester, forest health program head and staff;~~
 - (c) ~~nursery unit superintendents, nursery program managers, technicians, and equipment operators; and~~
 - (d) ~~tree improvement unit technicians, tree improvement program supervisors, technicians, and equipment operators.~~
 - (e) ~~forestation unit rangers;~~
- (5) ~~North Carolina Department of Environment, Health, and Natural Resources, Public Health Pest Management Section, Division of Environmental Health one medical entomologist;~~
- (5) [Count] County boards of health and municipal governments;

- 1 (a) at least one county environmental health specialist must be licensed where the health
2 department employees apply all the pesticides or supervise, on a weekly or more frequent
3 basis, the activities of all municipal employees applying [pesticides, at least one county
4 environmental health specialist must be licensed; pesticides;
- 5 (b) one county environmental health specialist and one municipal employee for each
6 municipality must be licensed in counties where the health department personnel apply
7 pesticides but have no direct control over municipal employees who apply pesticides; and
- 8 (c) one licensed supervisor for each municipality, sanitary [district]district, or mosquito
9 control district must be licensed in counties where only municipal, sanitary district or
10 mosquito control district personnel apply pesticides.
- 11 (6) County boards of health and municipal governments:
- 12 (a) In counties where the health department employees apply all the pesticides or supervise,
13 on a weekly or more frequent basis, the activities of all municipal employees applying
14 pesticides, at least one county sanitarian must be licensed.
- 15 (b) One county sanitarian and one municipal employee for each municipality must be licensed
16 in counties where the health department personnel apply pesticides but have no direct
17 control over municipal employees who apply pesticides.
- 18 (c) One licensed supervisor for each municipality, sanitary district or mosquito control district
19 must be licensed in counties where only municipal, sanitary district or mosquito control
20 district personnel apply pesticides.

21

22 *History Note:* Authority G.S. 143-437; 143-453(c)(1); 143-460(33);
23 Eff. February 1, 1976;
24 Amended Eff. May 1, 1991; August 1, 1982; January 27, 1978;
25 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November
26 22, 2018; November 22, 2018;
27 Amended Eff. November 1, 2024.

02 NCAC 09L .0512 is amended with changes as published in 38:23 NCR 1490 as follows:

02 NCAC 09L .0512 AGE REQUIREMENT

~~Each applicant for a license must be 18 years old by January 1 of the calendar year for which he has submitted an application for a license provided, however, in hardship cases persons below the age of 18 may be licensed by the Board on an individual basis when they demonstrate to the Board by written, or written and oral, examination their qualifications to sell or apply pesticides. A pesticide applicator must be at least 18 years old.~~

History Note: Authority G.S. 143-437; 143-449(b); 143-452(f); 143-453(b); 143-455(e);

Eff. February 1, 1976;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November

22, 2018; November 22, 2018;

Amended Eff. November 1, 2024.

02 NCAC 09L .0522 is amended with changes as published in 38:23 NCR 1490-1491 as follows:

02 NCAC 09L .0522 RECERTIFICATION OPTIONS

(a) 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" is defined as one hour of approved continuing certification training. Continuing certification training shall be approved by the Board based upon the USU.S. Environmental Protection Agency "Standards for certification of commercial applicators," as contained in 40 CFR 171.103, and "Standards for recertification of certified applicators," as contained in 40 CFR 171.107. 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, Board, as set forth in 40 CFR 171.103 and 40 CFR 171.107. Continuing certification requirements for each pest control category are as follows:

- | | |
|--|-------------------------------|
| (1) — aquatic | 6 credits per 5-year period |
| (1) — agricultural pest control – crop pest control | 10 credits per 5-year period; |
| (2) — public health | 6 credits per 5-year period |
| (2) — agricultural pest control – livestock pest control | 6 credits per 5-year period; |
| (3) — forest | 6 credits per 5-year period |
| (3) — forest pest control | 6 credits per 5-year period; |
| (4) — right of way | 4 credits per 5-year period |
| (4) — ornamental and turf pest control | 10 credits per 5-year period; |
| (5) — regulatory | 6 credits per 5-year period |
| (5) — aquatic pest control | 6 credits per 5-year period; |
| (6) — ag pest animal | 6 credits per 5-year period |
| (6) — right of way pest control | 4 credits per 5-year period; |
| (7) — ornamental and turf | 10 credits per 5-year period |
| (7) — public health pest control | 6 credits per 5-year period; |
| (8) — seed treatment | 3 credits per 5-year period |
| (8) — commercial public health pest control | 6 credits per 5-year period; |
| (9) — ag pest plant | 10 credits per 5-year period |
| (9) — regulatory pest control | 6 credits per 5-year period; |
| (10) — demonstration and research | 10 credits per 5-year period |
| (10) — demonstration and research pest control | 10 credits per 5-year period; |
- The continuing certification credits required for demonstration and research may shall consist of any combination of credits divided between training in the primary categoriescategories, set forth in Subparagraph (a)(1) through (a)(9) and (a)(11) through (a)(14) of this RuleRule, and training in demonstration and research.
- | | |
|---------------|-----------------------------|
| (11) — aerial | 4 credits per 2-year period |
|---------------|-----------------------------|

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

~~(11) seed treatment 3 credits per 5-year period;~~

~~(12) wood treatment 4 credits per 5-year period~~

~~(12) wood treatment 4 credits per 5-year period;~~

~~(13) soil and growing media fumigation 3 credits per 5-year period~~

~~(13) soil and growing media fumigation 3 credits per 5-year period; and~~

~~(14) aerial 4 credits per 5-year period.~~

The Continuing Certification Credits required for aerial applicators shall include one credit obtained through training aerial methods. The Continuing Certification Credits established for each ground application pest control category shall be obtained in at least two years of the five-year period.

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

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

Eff. September 10, 1980;

Amended Eff. June 1, 2016; November 1, 1984;

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .0531 is adopted as published with changes in 38:23 NCR 1491-1492 as follows:

02 NCAC 09L .0531 PESTICIDE LICENSE EXAMINATION REQUIREMENT

(a) ~~[ADOPTION BY REFERENCE:]~~ The North Carolina Pesticide Board, hereby ~~[adopts]~~ incorporates by reference for all Pesticide Applicators, Part 171.103 (a) through (e) “Standards for certification of commercial applicators” of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B—Certification Requirements for Applicators of Restricted Use Pesticides" including subsequent ~~[amendments.]~~ amendments and editions. Copies of this material may be obtained at no cost from the U.S. Government Printing Office ~~[website, www.gpoaccess.gov/cfr/index.html.]~~ website.

(b) Core ~~[requirements]~~ requirements, as described in 40 CFR ~~[171.103]~~ 171.103, must be met for all categories and subcategories.

(c) The competency standards for additional categories established in North Carolina are as follows:

(1) commercial public health pest control: applicators must demonstrate practical knowledge of pests that are important vectors of disease, including recognizing the pests and signs of their presence, their habitats, their life cycles, ~~[biology]~~ biology, and behavior as it may be relevant to problem identification and ~~[control, as well as]~~ control; the required knowledge on how to minimize damage to and contamination of areas ~~[treated.]~~ treated; acute and chronic exposure of people and ~~[pets.]~~ pets; and non-target exposures;

(2) wood treatment: applicators must demonstrate a practical knowledge of the different types of wood, tree ~~[anatomy and physiology]~~ anatomy, physiology, and be able to identify what treatment factors are specific to ~~[each, as well as]~~ each; common disease and insect problems and factors, such as moisture, that must be considered prior to beginning a ~~[treatment, and]~~ treatment; knowledge of the different types of wood preservatives, ~~[as well as]~~ and the specific PPE requirements and cautions associated with ~~[each.]~~ each; and proper disposal of treated and unused wood;

(3) livestock pest control and its subcategories are established as follows:

(A) livestock: applicators must demonstrate practical knowledge of the various types of livestock, the area where they're ~~[housed]~~ housed, and their associated ~~[pests.]~~ pests; ~~[as well as the required knowledge which shall include]~~ specific pesticide toxicity and residue ~~[potential.]~~ potential; and the hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment;

(B) poultry: applicators must demonstrate practical knowledge of poultry, typical poultry operations and their associated ~~[pests.]~~ pests; ~~[as well as the required knowledge of]~~ specific pesticide toxicity and residue potential, and the hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment; and

1 (C) small animal: applicators must demonstrate practical knowledge of small companion
2 animals and their associated [pests, pests; as well as the required knowledge of] specific
3 pesticide toxicity and residue potential, and the hazards associated with such factors as
4 formulation, application techniques, age of animals, stress, and extent of treatment.
5

6 *History Note:* Authority G.S. 143-437; 143-449(b); 143-4523(b); 143-452(f); 143-453(b); 143-455; 143-460;
7 Adopted Eff. November 1, 2024.

02 NCAC 09L .1002 is amended with changes as published in 38:23 NCR 1492 as follows:

02 NCAC 09L .1002 GENERAL REQUIREMENTS

(a) All agricultural aircraft operations in North Carolina shall comply with the Federal Occupational Safety and Health Act of 1971 (OSHA), Title 29 U.S.C. Chapter ~~15,15~~; the North Carolina Occupational Safety and Health Law, G.S. Chapter 95 Article 16, all and rules and regulations promulgated ~~thereunderthereunder~~; and the Federal Aviation Regulations 14 CFR Part 137. In any case of conflict, a provision of the aforementioned authorities takes precedence over any of these Rules-rules.

(b) Each aerial application business shall have a licensed contractor. ~~The contractor shall be responsible for the compliance of the business with the North Carolina Pesticide Law of 1971 and all rules promulgated thereunderthereunder,~~ except where the responsibility is designated to another person(s) this Section.

(c) All agricultural aircraft operations (pilot or contractor) shall keep a written record to be completed within 72 hours after each application, unless requested sooner by an employee of the Pesticide Section for the purposes of a pesticide incident investigation. The record shall showcontain the following:

- (1) name of contractor;
- (2) name and address of the person for whom the pesticide was applied;
- (3) identification of farm or land sites treated with pesticide(s);
- (4) name of crop which was treated;
- (5) total number of acres treated;
- (6) the year, month, date, and the specific time of day when each pesticide application was completed;
- (7) the brand name of the pesticide(s) and EPA registration number;
- (8) amount of formulated product or active material applied per acre shall be specified;
- (9) total gallons or pounds per acre of the final tank mix applied per acre;
- (10) name of pilot; and
- (11) signature of the person completing this record.

(d) Each day of application shall be recorded as a separate record.

(e) The pilot shall, prior to application, learn and confirm:

- (1) the boundaries and exact location of the target area(s); and
- (2) the identity of nontarget areas and safety hazards located on or adjacent to the target areas.

(f) Spray and spreading equipment shall be rinsed after each agricultural aircraft operationoperation, except when the next agricultural aircraft operation will be made [using the same pesticide, or if another pesticide, compatible with the previous pesticide according to the manufacturer's recommendations was previously in the equipment, and will not result in any adverse effects or created by the drainage or disposal of waste materials and conducted with methods which will not create an adverse effect as defined in this Section.] using the same pesticide, or another pesticide compatible with the previous pesticide, according to the manufacturer's recommendations, was previously used in the equipment and will not result in any adverse

effects, or created by the drainage or disposal of waste materials, and will not create an adverse effect as defined in ~~this Section.~~ 02 NCAC 09L .1001(2).

(g) During application, the flow and mixture of the pesticide(s) shall be uniform. Pilots and contractors shall utilize equipment which will maintain a uniform mixture and flow during application.

(h) Pilots and contractors shall use and operate, in any agricultural aircraft operation, aircraft equipped with spray or spreading equipment ~~suited, suited~~ according to its manufacturer's recommendations for the pesticide(s) to be applied. All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent leaking and dissemination of pesticides on any nontarget areas over which the flight is made. Such equipment shall not allow spillage, ~~dripping dripping,~~ ~~and backflow~~ ~~backflow,~~ or create a hazard from vapors or drift.

(i) The loading area shall be kept free of pesticide contamination.

(j) No pesticide(s) shall be applied by an aerial applicator while any persons other than those assisting in the application are in the target area.

(k) The shape of the ~~tank~~ ~~tank,~~ ~~or~~ hopper of the ~~spray~~ ~~spray,~~ or spreading equipment shall be such as to allow complete drainage during flight and on ground.

(l) The contractor or pilot shall notify the Secretary of the Board within 24 hours of any emergency or accidental release of pesticide(s) from the application or auxiliary equipment. They shall provide the following information:

- (1) the name of the pilot;
- (2) the contractor involved;
- (3) the name of the property owner or operator;
- (4) the location of the incident;
- (5) the name of the pesticide;
- (6) the estimated amount of pesticide involved;
- (7) the estimated size of the area that received the spill;
- (8) the description of what is located within 300 feet from the edge of the spill in all directions;
- (9) the number of humans or animals known to have been contaminated; and
- (10) the weather conditions at the site of the emergency or accidental release of pesticide(s).

History Note: Authority G.S. ~~143-147;~~ 143-458; ~~143-463;~~ 143-466;

Eff. July 2, 1976;

Amended Eff. May 1, 2009; February 1, 1989; January 1, 1985; August 1, 1982;

Readopted Eff. ~~August 1, 2020-August 1, 2020;~~

Amended Eff. November 1, 2024.

02 NCAC 09L .1003 is amended with changes as published in 38:23 NCR 1492-1493 as follows:

02 NCAC 09L .1003 DRIFT CONTROL

No person shall apply a ~~pesticide(s)~~pesticide or pesticides aurally under such conditions that drift from ~~pesticide(s)~~pesticide particles or vapors results in adverse effect. ~~As a minimum, the following precautions shall be taken:~~

- ~~(1) Fixed nozzles shall be spaced on the boom to afford a uniform spray pattern at the height the aircraft will be flown.~~
- ~~(2) All pesticides applied aurally as liquids, in liquid carriers, or as dusts shall be released within 15 feet above the canopy of the target, except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.~~
- ~~(3) All pesticides applied aurally as dry granules or pellets shall be released within 40 feet above the canopy of the target, except where obstructions in or adjacent to the target would endanger the safety of the pilot while applying pesticides at that altitude.~~
- ~~(4) All applications of the following liquid pesticide formulations shall be made using a D4 or larger disk with a 46 whirlplate with the discharge directed with the airstream or not more than 10 degrees below the horizontal, and operated at a maximum pressure of 40 pounds per square inch, or a system producing a droplet size range not smaller than the above system, except for rotary wing aircraft flying at speeds of 60 mph or less, in which case the nozzles may be directed downward:~~
 - ~~(a) phenoxy herbicides,~~
 - ~~(b) paraquat,~~
 - ~~(c) picloram (Tordon), and~~
 - ~~(d) dicamba.~~
- ~~(5) Restricted use pesticides other than those specified in (4) of this Rule shall be applied as follows:~~
 - ~~(a) use a D4 or larger disk with a 45 whirlplate with the discharge directed with the airstream or not more than 10 degrees below the horizontal, and operated at a maximum pressure of 40 pounds per square inch; or~~
 - ~~(b) a system producing a droplet size range not smaller than the above system, except for rotary wing aircraft flying at speeds of 60 mph or less, in which case the nozzles may be directed downward; or~~
 - ~~(c) use a boom with outside nozzles placed no closer to the wingtips than 12 1/2 percent of the total wingspan distance. If the length of the boom of the spraying equipment exceeds the nozzle span, a bleeder line shall be provided from the end of the boom to the last nozzle on the boom.~~

*History Note: Authority G.S. 143-458; 143-463;
Eff. July 2, 1976;*

1 *Amended Eff. January 1, 1985;*
2 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*
3 *Amended Eff. November 1, 2024.*

02 NCAC 09L .1102 is amended with changes as published in 38:23 NCR 1493-1494 as follows:

02 NCAC 09L .1102 DEFINITIONS

The following definitions apply in this Section.

- (1) "Certified applicator" means any individual who is certified to use or supervise the use of any restricted use pesticide.
- ~~(2) "Private pesticide applicator" means a person who uses or supervises the use of any restricted use pesticide under the following conditions:~~
- (2) "Noncertified applicator" means any person who is not certified in accordance with G.S. 143-440(b) to use or supervise the use of restricted use pesticides, but who has met the requirements set forth in 40 CFR 171.201(c), and who is using a restricted use pesticide under the direct supervision of a certified applicator in accordance with 40 CFR 171.201.
 - ~~(a) for the purpose of producing any agricultural commodity on property owned or rented by the person or the person's employer; or~~
 - ~~(b) 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.~~
- ~~(3) "Private pesticide applicator certification standards review" means a 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:~~
 - ~~(a) the pest problems and pest control practices associated with agricultural operations;~~
 - ~~(b) storage, use, handling, and disposal of pesticides and their containers;~~
 - ~~(c) labels and labeling information;~~
 - ~~(d) local environmental situations to consider during application to avoid contamination;~~
 - ~~(e) recognition of poisoning symptoms and procedures to follow in case of a pesticide accident;~~
 - ~~(f) protective clothing, equipment, and other worker protection standards;~~
 - ~~(g) federal and State pesticide laws, rules, and regulations and the applicator's related legal responsibility;~~
 - ~~(h) current agricultural production related pesticide technology; and~~
 - ~~(i) sources of advice and guidance necessary for the safe and proper use of each pesticide related to his or her certification including EPA guidance, extension publications and court decisions.~~
- (3) "Private pesticide applicator" means a person who uses or supervises the use of any restricted use pesticide under the following conditions:
 - (a) for the purpose of producing any agricultural commodity on property owned or rented by the person or the person's employer; or

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

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

7 (4) ~~—"Continuing certification credit" means one hour of continuing certification training. Such training~~
8 ~~may be offered during grower meetings, seminars, short courses, or other presentations taught by~~
9 ~~Cooperative Extension Service pesticide training agents, or other privately or publicly sponsored~~
10 ~~training organizations. Private applicators may also earn continuing certification credits by attending~~
11 ~~training sessions for which credit has been assigned in the following commercial categories as set~~
12 ~~forth in Rule .0505(1)(a) through (1)(k):~~

- 13 (a) ~~—aquatic;~~
14 (b) ~~—agricultural pest animal;~~
15 (c) ~~—agricultural pest plant;~~
16 (d) ~~—ornamental and turf;~~
17 (e) ~~—forest;~~
18 (f) ~~—seed treatment; and~~
19 (g) ~~—soil and growing media fumigation.~~

20 (4) ~~"Private pesticide applicator certification standards review" means a training session designed by~~
21 ~~the North Carolina State University Pesticide Safety Extension Specialist to advance a private~~
22 ~~pesticide applicator's practical knowledge in areas such as:~~

- 23 (a) ~~the pest problems and pest control practices associated with agricultural operations;~~
24 (b) ~~storage, use, handling, and disposal of pesticides and their containers;~~
25 (c) ~~labels and labeling information;~~
26 (d) ~~local environmental situations to consider during application to avoid contamination;~~
27 (e) ~~recognition of poisoning symptoms and procedures to follow in case of a pesticide~~
28 ~~accident;~~
29 (f) ~~protective clothing, equipment, and other worker protection standards;~~
30 (g) ~~federal and state pesticide laws, rules, and regulations and the applicator's related legal~~
31 ~~responsibility;~~
32 (h) ~~current agricultural production-related pesticide technology; and~~
33 (i) ~~sources of advice and guidance necessary for the safe and proper use of each pesticide~~
34 ~~related to his or her certification including EPA guidance, extension publications and court~~
35 ~~decisions.~~

36 These training sessions shall be taught by Cooperative Extension Service pesticide training agents or other
37 individuals approved by the Pesticide Board on a case-by-case basis, based upon the individual's education,

1 experience, and knowledge of Sub-items (4)(a) through (i) of this Rule.

2 (5) "Continuing certification credit" means one hour of continuing certification training. Such training
3 may be offered during grower meetings, seminars, short courses, or other presentations taught by
4 Cooperative Extension Service pesticide training agents, or other privately or publicly sponsored
5 training organizations. Private applicators may also earn continuing certification credits by
6 attending training sessions for which credit has been assigned in the following commercial
7 categories and subcategories as set forth in ~~Rule .0505(b);~~ Rule 02 NCAC 09L .0505(b):

8 (a) agricultural pest control;

9 (i) crop pest control;

10 (ii) livestock pest control;

11 (b) forest pest control;

12 (c) ornamental and turf pest control;

13 (d) aquatic pest control;

14 (e) seed treatment;

15 (f) soil and growing media fumigation pest control; and

16 (g) aerial pest control.

17
18 *History Note: Authority G.S. 143-440; 143-453;*

19 *Eff. December 1, 1976;*

20 *Amended Eff. June 1, 2016; October 1, 2002; November 1, 1988; July 1, 1987; February 5, 1978;*
21 *April 20, 1977;*

22 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*

23 *Amended Eff. November 1, 2024.*

02 NCAC 09L .01103 is amended with changes as published in 38:23 NCR 1494 as follows:

02 NCAC 09L .1103 CERTIFICATION EXAMINATION

(a) ~~An applicant for an initial private pesticide applicator's certification shall demonstrate by written examination his or her knowledge of pesticides and their usefulness and hazards; his or her competence to act as a private pesticide applicator; and his or her knowledge of the laws and rules governing the use and application of pesticides by private pesticide applicators. Passing grade shall be 70 percent.~~ ADOPTION BY REFERENCE. The North Carolina Pesticide Board hereby ~~adopts~~ incorporates by reference, including subsequent ~~amendments,~~ amendments and editions, Part 171.105 (a) through (i) "Standards for certification of private applicators" of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart B–Certification Requirements for Applicators of Restricted Use Pesticides." Copies of this material may be obtained at no cost from the U.S. Government Printing Office ~~[website, www.gpoaccess.gov/cfr/index.html.] website.~~

(b) ~~Any applicant for initial certification in any private applicator certification subclass shall first become certified as a private pesticide applicator. A passing grade shall be 70 percent.~~

(c) Any applicant for initial certification in any private applicator certification subclass shall first become certified as a private pesticide applicator.

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

Eff. December 1, 1976;

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

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .1105 is amended with changes as published in 38:23 NCR 1495 as follows:

02 NCAC 09L .1105 APPLICATIONS UNDER SUPERVISION OF CERTIFIED APPLICATOR

~~(a) The certified applicator acting in a supervisory role shall be available to the non-certified applicator in the event he is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator aware of all directions for use and cautions for safe use and application of any restricted use pesticide he or she may be directed to apply.~~

(a) [ADOPTION BY REFERENCE.]The North Carolina Pesticide Board hereby [adopts][incorporates] by reference, including subsequent [amendments, amendments and editions], Part 171.201 (a) through (d) of Title 40: Protection of Environment of the Code of Federal Regulations, titled "Certification of Pesticide Applicators Subpart C—Supervision of Noncertified Applicators." Copies of this material may be obtained at no cost from the U.S. Government Printing Office [website, www.gpoaccess.gov/cfr/index.html.][website].

~~(b) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application site or at the loading and mixing site, if different from the application site, the following:~~

- ~~(1) — written or printed directions for applying the restricted use pesticide, which may include pesticide product labeling;~~
- ~~(2) — written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and unreasonable adverse effects on the environment which may include pesticide product labeling; and~~
- ~~(3) — instructions for direct communication with the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.); Such instructions, when followed, shall be considered direct communication with the certified applicator.~~

~~(b) All certified applicators must adhere to the provisions of recordkeeping as outlined throughout~~ [in the following chapter and subchapters of this section.]02 NCAC 09L.

- ~~(1) Before allowing a noncertified applicator to make a restricted use pesticide application under their direct supervision, the supervising certified applicator must create or verify the existence of records documenting that each noncertified applicator has the qualifications required in 40 CFR 171.201(c). [For each noncertified applicator, the records must contain the information appropriate to the method of qualification as follows.]~~For each noncertified applicator, the records must contain the information appropriate to the method of qualification as provided in Parts (b)(1)(A) through (b)(1)(D) of this Rule.

- ~~(A)~~ (A) If the noncertified applicator was trained in accordance with CFR 171.201(c)(1), the record must contain all of the following information: the noncertified applicator's printed name and signature; the date the training requirement in CFR 171.201(c) was met; the name of the person who provided the training; and the title or a description of the training provided.

- (B) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in accordance with CFR 171.201(c)(2), the record must contain all of the information required in 40 CFR 170.501 (d)(1).
- (C) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, as described in CFR 171.201(c)(3), the record must contain the information required by the certifying authority.
- (D) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted, or not certified in the jurisdiction where the use will take place, as described in CFR 171.201(c)(4), the record must include all of the following information: the noncertified applicator's name; the noncertified applicator's certification number; the expiration date of the noncertified applicator's certification; and the certifying authority that issued the certification.
- (2) The certified applicator must create or verify the existence of the record containing the information in Subparagraph (b)(1) of this Rule before allowing the noncertified applicator to use any restricted use pesticides under his or her direct supervision.
- (3) The certified applicator supervising any noncertified applicator must have access to records documenting the information required in Subparagraph (b)(1) of this Rule for three years from the date the noncertified applicator use the pesticide.
- (c) The certified applicator [~~acting in a supervisory role~~] providing direct supervision shall be available to the non-certified applicator in the event he or she is needed. It shall be the responsibility of the certified applicator to keep the non-certified applicator fully aware of all directions for use and cautions necessary for safe use and application of any restricted use pesticide they may be directed to apply.
- (d) All non-certified applicators applying any restricted use pesticide under the direct supervision of a certified applicator shall have available at the application [~~site~~] site, or at the loading and mixing site, if different from the application site, the following:
- (1) detailed written or printed directions for applying the restricted use pesticide (pesticide product label [~~may~~] will suffice);
 - (2) detailed written or printed instructions describing procedures to be followed in order to prevent injury to the applicator, other persons and/or unreasonable adverse effects on the environment (pesticide product label [~~may~~] will suffice); and
 - (3) detailed instructions for contacting the certified applicator under whose supervision the non-certified applicator is working (i.e., name, location, telephone number, radio contact, etc.), and such instructions, when followed, shall result in direct communication with the certified applicator.

History Note: Authority G.S. 143-440;
Eff. December 1, 1976;
Amended Eff. February 5, 1978;

- 1 *Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;*
- 2 *Amended Eff. November 1, 2024.*

02 NCAC 09L .1107 is amended with changes as published in 38:23 NCR 1496 as follows:

02 NCAC 09L .1107 AGE LIMITATIONS

Individuals who wish to be certified as private pesticide applicators shall be ~~at least 18~~ years old prior to participating in a certification option or being issued a single purchase permit under the emergency certification procedure; however, in hardship cases individuals below the age of 16 may be licensed by the Board on an individual basis when they demonstrate to the Board by written, or written and oral examination their qualifications as a private pesticide applicator. ~~procedure.~~ procedure, as set forth in 02 NCAC 09L .1104.

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

Eff. December 1, 1976;

Readopted Eff. ~~August 1, 2020.~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .1108 is amended with changes as published in 38:23 NCR 1496 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 shall complete two hours of private pesticide applicator certification standards review, plus two continuing certification credit hours, as defined in Rule ~~1102(d)~~ 1102(5) of this Section.

(c) A private pesticide applicator certified in the subclass of soil and growing media ~~fumigation~~ fumigation, or agricultural commodity fumigation ~~fumigation, or aerial~~ 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; 143-453;

Eff. July 1, 1987;

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

Readopted Eff. ~~August 1, 2020~~ August 1, 2020;

Amended Eff. November 1, 2024.

02 NCAC 09L .1109 is amended with changes as published in 38:23 NCR 1496 as follows:

02 NCAC 09L .1109 CERTIFICATION OF PRIVATE APPLICATORS

The following subclassifications are established for the certification of private pesticide applicators:

- (1) "Soil and growing media fumigation" means private pesticide applicators utilizing ground equipment applying restricted use fumigants to property they own or lease, their employer's property, or applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.
- (2) "Agricultural commodity fumigation" means private pesticide applicators applying restricted use fumigants to agricultural commodities on property they own or lease, their employer's property, or applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.
- (3) "Aerial" means private pesticide applicators applying restricted use pesticides from an aircraft onto agricultural commodities on property they own or lease, their employer's property, or applied without compensation other than the trading of personal services between producers of agricultural commodities on the property of another person.

History Note: Authority G.S. 143-440; 143-440; 143-437; 143-453;
Eff. August 1, 2015;
Readopted Eff. August 1, 2020; August 1, 2020;
Amended Eff. November 1, 2024.

02 NCAC 09L .1303 is amended with changes as published in 38:23 NCR 1496 as follows:

02 NCAC 09L .1303 EXEMPTIONS

(a) Restricted use pesticides may be made available to ~~ana noncertified~~ employee under the direct supervision of a certified private or licensed pesticide applicator, certified structural pest control applicator, or structural pest control licensee provided the noncertified employee is acting under the ~~direction and supervision~~ direct supervision of said applicators or licensees and provided further that said noncertified employee is ~~16 years of age or older~~ at least 18 years old.

(b) The ability to make restricted use pesticides available to a noncertified employee, as set forth in Paragraph (a), also This exemption applies to restricted use pesticides in channels of trade prior to making them available for end use.

(c) Prior to making available restricted use pesticides to ~~ana noncertified~~ employee under the direct supervision of a certified private applicator, licensed pesticide applicator, certified structural pest control applicator, or structural pest control licensee, all persons shall require the noncertified employee to sign his or her name and list the certification number of employer under whose direction and supervision the noncertified employee is acting. Such information shall be available for routine inspection by the North Carolina Pesticide Board or its agent.

*History Note: Authority G.S. 143-437; 143-440; 143-466;
Eff. August 26, 1977;
Amended Eff. November 1, 1988; February 5, 1978;
Temporary Amendment Eff. November 1, 2001;
Amended Eff. August 1, 2002;
Readopted Eff. ~~August 1, 2020~~ August 1, 2020;
Amended Eff. November 1, 2024.*

02 NCAC 09L .01305 is amended with changes as published in 38:23 NCR 1496-1497 as follows:

02 NCAC 09L .1305 RECORD KEEPING REQUIREMENTS

All licensed pesticide dealers, as defined in G.S. 143-460, shall keep records of all sales of restricted use pesticides showing the following:

- (1) date of sale;
- (2) initials of sales clerk;
- (3) name of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this ~~Section~~Section, or ~~[noncertified]~~noncertified employees as set out in Rule .1303 of this Section;
- (4) certification or license number of certified or licensed ~~applicator~~applicator, as set out in Rule .1302 of this Section;
- (5) certification or license expiration date as shown on the certified or licensed applicator's certification card;
- ~~(6) product brand name;~~
- ~~(6) categories held by certified or licensed applicator;~~
- ~~(7) EPA registration number;~~
- ~~(7) product brand name;~~
- ~~(8) number of individual containers;~~
- ~~(8) EPA registration number;~~
- ~~(9) size of individual containers; and~~
- ~~(9) number of individual containers;~~
- ~~(10) total quantity sold.~~
- ~~(10) size of individual containers; and~~
- ~~(11) total quantity sold.~~

History Note: *Authority G.S. 143-437; 143-440; 143-466;*
Temporary Adoption Eff. November 1, 2001;
Eff. August 1, 2002;
Readopted Eff. ~~August 1, 2020~~August 1, 2020;
Amended Eff. November 1, 2024.

02 NCAC 09L .1402 is amended with changes as published in 38:23 NCR 1497 as follows:

02 NCAC 09L .1402 RECORD KEEPING REQUIREMENTS

All pesticide applicators, as defined in G.S. 143-460 utilizing ground ~~equipment~~equipment, shall keep for three ~~years~~years, records created within 72 hours after each application of all applications of restricted use pesticides. The records shall ~~show~~contain the following:

- (1) name of licensed pesticide applicator or licensed public operator;
- (2) name and address of the person for whom the pesticide was applied;
- (3) identification of farm or site(s) treated with pesticide(s);
- (4) name of crop, commodity, or object(s) that was treated with pesticide(s);
- (5) approximate acres, size, or number of other object(s) treated;
- (6) the year, month, date, and the specific time of day when each pesticide application was completed and each day of application shall be recorded as a separate record;
- (7) the brand name of the pesticide(s) and EPA registration number(s);
- (8) amount (volume or weight) of pesticide formulation(s) or active ingredient(s) applied per unit of measure; and
- (9) name(s) of person(s) applying pesticide(s).

*History Note: Authority G.S. 143-458; 143-463; 143-466(a);
Eff. October 21, 1977;
Amended Eff. April 1, 2009;
Readopted Eff. ~~August 1, 2020~~August 1, 2020;
Amended Eff. November 1, 2024.*

Burgos, Alexander N

Subject: FW: NC Pesticide Board Rules-October 2024

From: Hayworth, Anna <Anna.Hayworth@ncagr.gov>
Sent: Thursday, October 3, 2024 3:05 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Good afternoon Mr. Wiggs,

Yes, I am finalizing our response and will have those technical corrections back to you before the end of the day. We were able to get them turned around, and I do not believe we will require an extension at this time.

Anna R. Hayworth | Agricultural Programs Specialist
Office of the Assistant Commissioner of Consumer Protection
NC Department of Agriculture and Consumer Services
1002 Mail Service Center | Raleigh, NC 27699
Office: (984) 236-4509 (new office)
Cell: (919) 745-9356
anna.hayworth@ncagr.gov

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Thursday, October 3, 2024 3:03 PM
To: Hayworth, Anna <Anna.Hayworth@ncagr.gov>; Feagans, John E <John.Feagans@ncagr.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: NC Pesticide Board Rules-October 2024

Ms. Hayworth,

Good afternoon. Do you think your agency will be able to reply to the Request for Changes by the deadline of 5pm today? I'm asking since you said during our call on September 19th that you would need to discuss with management how your agency wished to respond.

Please reply at your earliest convenience. Thank you.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

From: Wiggs, Travis C
Sent: Thursday, September 19, 2024 3:08 PM
To: Hayworth, Anna; Feagans, John E
Cc: Burgos, Alexander N
Subject: NC Pesticide Board Rules-October 2024
Attachments: 10_2024_Pesticide Board-Request for Technical Changes.docx

Good afternoon,

I'm the attorney who reviewed the rules submitted by the N.C. Pesticide Board for the October 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, October 30, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised Rules and forms to me via email, no later than 5 p.m. on October 3, 2024. Let me know if you have any questions.

Thank you.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

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