

**Summary of Proposed Changes to North Dakota  
Pesticide Administrative Rules  
North Dakota Administrative Code (NDAC) 60-01, 60-02, and 60-03**

Under Chapter 4-35 of the North Dakota Century Code, the Pesticide Control Board is directed to administer the Pesticide Act and is provided authority to adopt administrative rules to implement the Act. The North Dakota pesticide administrative rules are found in Titles 60-01, 60-02, and 60-03 of the North Dakota Administrative Code (N.D.A.C.).

Significant changes were made to the Pesticide Act during the 2009 Legislative Assembly. Changes are now being contemplated to the pesticide administrative rules. The proposed significant changes include:

**1. Improved readability**

Major changes were made to the pesticide law in 2009 to reword the statute into plain, easy to understand language. This was done to increase comprehension, improve transparency, and hopefully increase compliance. The majority of proposed changes to the administrative rules are to similarly improve readability and increase compliance.

**2. Clarifying commercial certification classes**

Twelve different commercial certification classes are found in N.D.A.C. 60-03-01-05. However, individuals are not always clear which category they need in a given situation. Proposed changes to N.D.A.C. 60-03-01-05 are intended to clarify when each certification class is needed.

**3. Adding military deferment provisions**

Proposed changes to N.D.A.C. 60-03-01-05.1 and 60-03-01-05.2 would grant a deferral from recertification deadlines for all certified applicators deployed on active military duty. Under the proposed changes, those persons on active duty could apply for an extension of their active certification status for a time period not to extend beyond April first of the year following their return from active duty.

**4. Adding language to meet equivalency for federal bulk container/containment regulations**

On August 16, 2011, the U.S. EPA implemented a federal regulation that established containment requirements for bulk pesticide facilities, as well as other requirements for pesticide containers. Proposed changes to 60-03-01-11.1 and 60-03-01-11.2 will allow North Dakota to adopt those federal requirements under state authority and ensure that our rules are equivalent to EPA's. The proposed changes would require bulk facilities to conduct monthly inspections, keep inspection records, and promptly repair cracks or other damage to containment structures.

The proposed changes would also require facilities to protect hoses, valves, and other appurtenances from damage resulting from operating personnel and moving equipment.

**5. Expanding spill kit requirements**

N.D.A.C. 60-03-01-06 currently requires that only commercial pesticide applicators have a spill kit at a loading site. Proposed changes to this section would also require all public applicators to have a spill kit sufficient to clean up a five gallon spill of a liquid product.

**6. Exempting some pesticide users from storage signage requirements**

The current language in N.D.A.C. 60-03-01-06(2)(d) requires that all pesticide storage areas be marked with signage at all entrances. Taken literally, this would require all areas containing any pesticide, such as a homeowner's garage or a janitor's closet, be marked with a pesticide storage sign. The proposed changes to this subsection will exempt residential and farm pesticide storage areas from the signage requirement. The new language will also exempt areas storing only hard surface disinfectants (such as a janitor's closet).

**7. Adding discretionary authority for pesticide certification applications**

As they are currently written, the administrative rules do not provide authority to deny a person's application for certification, even if they have a history of violations or other locations. The proposed changes to N.D.A.C. 60-03-01-05.4 would allow NDSU to deny a certification application to any individual that has committed a documented violation of FIFRA or the pesticide regulations of any state, province or tribal authority within the last three years.

**8. Requiring additional training for recertifying aerial applicators**

The current language 60-03-01-05.1 holds all individuals certified as commercial applicators, public applicators and dealers to the same standard when it comes to the recertification process. The proposed changes to 60-03-01-05.1 would require individuals holding an aerial core commercial or aerial core public applicator certificate to attend a professional aerial applicators' support system (PAASS) program or other Pesticide Control Board-approved program at least once every three years before recertification is issued. This additional requirement in order to recertify as an aerial applicator was brought forth by the ND Aerial Applicator's Association as a way to ensure that their industry remains strong, well-informed and trained. After drafting the proposed language, the Pesticide Control Board approved of the language, which was forwarded to Dave Gust, ND Aerial Applicator's Association President. The Department also received a letter of support from the National Agricultural Aviation Research and Education Foundation.