

02 NCAC 09L .1006 EXEMPTIONS

There shall be no exemptions from this Section except under the following conditions:

- (1) During an emergency proclaimed by the Commissioner, under G.S. 143.461(2), specific aerial applicators may, on a temporary basis, be exempted from all, or from specific regulations by the Commissioner.
- (2) The North Carolina Pesticide Board may authorize exemptions:
 - (a) from specific rules for specific aerial applications when deemed appropriate for specific aerial applications upon consideration of public health, environmental, and economic impact; or
 - (b) from specific rules for an aerial applicator applying pesticides while engaged in experimental work for or under the direct supervision of a public agency or while engaged in experimental work for a private individual or person.
- (3) Any State, federal, or public agency or aerial applicator under contractual agreement with and under supervision of such an agency when conducting a pest control operation may be exempted from Rule .1002(j) of this Section, and Rule .1005(b) through (e) of this Section provided that, at least 30 days prior to the proposed initiation of the subject operation they present to the Pesticide Section, a complete description of the operation that meets or exceeds the following standards:
 - (a) Project Description. The application shall include all of the following:
 - (i) explanation of why the project is needed;
 - (ii) identification of target pest or pests;
 - (iii) map showing treatment area;
 - (iv) total acreage to be treated; and
 - (v) proposed date or dates of application (range).
 - (b) Description of the Pesticide. The application shall contain a description of the pesticide(s) proposed for use under the exemption. Such information shall include:
 - (i) a statement that the pesticide product(s) proposed for use carries current State and federal registration and are labeled for the proposed use. The EPA registration number for each pesticide shall be included in the statement;
 - (ii) a Safety Data Sheet (SDS) for each pesticide proposed for use;
 - (iii) a statement specifying the composition of the final spray mixture to be applied to the target area. Identify any diluent(s), adjuvant(s), or other materials to be used with the pesticide(s) in the final spray mixture.
 - (c) Aircraft Information. The description shall include the following:
 - (i) identification of type(s) of aircraft proposed for use (fixed wing, helicopter, etc.); and
 - (ii) identification of equipment specifications.
 - (d) Environmental Evaluation. The description shall include the following:
 - (i) identify or map any hospitals, schools, nursing homes, watersheds, and any other sensitive environmental areas in or near the proposed treatment area;
 - (ii) list any rare, threatened, or endangered species in the proposed treatment area and describe measures, if any, to lessen adverse environmental impacts to such species or their habitat from the proposed treatment(s);
 - (iii) describe alternative methods of pest control (options). A no treatment alternative shall be included. Describe probable environmental consequences of each alternative; and
 - (iv) describe measures, if any, to mitigate the adverse environmental impacts of the proposed project.
 - (e) Notification and Public Input Plan. The application shall contain the following:
 - (i) Preliminary Notification:
 - (A) For small projects less than 50 acres or fewer than 20 landowners, individual notification by written, oral, digital communication, or mailings, may be used. This notification shall include the information in criteria (a) through (c);
 - (B) For larger projects, print, broadcast, or internet news media may be used for preliminary notification. A public meeting may also be used as

a preliminary notification tool. This notification shall include the information in criteria (a) through (c);

- (ii) Input Plan. There should be a plan for allowing public input about the project prior to the final choice of the course of action to be taken;
- (iii) Operational Notification. After a decision is made on the course of action to be taken on the project, the people affected by the project shall be informed of the decision. On small projects this may be done on an individual basis. On larger projects the news media shall be an appropriate avenue of notification;
- (iv) A contact person and telephone number shall be listed in the public notice; and
- (v) Evacuation Plan. For persons concerned about the project because of health reasons, there shall be a notification procedure so they may leave the treatment area while the project is underway.

The Pesticide Section shall either approve, disapprove, or refer to the North Carolina Pesticide Board all applications for exemption.

- (4) Any local health director or aerial applicator licensed under the subcategory of public health pest control, under supervision of such local health director when conducting a control operation for disease vectors or other pest of public health significance shall be exempted from 02 NCAC 09L .1002(j) General Requirements; .1003, Drift Control; and .1005(b) through (e), Restricted Areas, provided such local health director or his authorized designee notifies the secretary of the Board prior to initiation of subject operation and submits the following information:

- (a) name of aerial applicator or contractor,
- (b) location and general description of operation area(s),
- (c) identity of target pest(s),
- (d) brand name(s) and EPA registration number(s) of the pesticide(s) to be used,
- (e) scheduled date(s) of application(s), and
- (f) outline of nature of operation.

All pesticide(s) shall be applied in compliance with label requirements.

*History Note: Authority G.S. 143-458; 143-461(1),(2),(5); 143-463;
Eff. July 2, 1976;
Amended Eff. October 1, 1988; January 1, 1985; August 1, 1982; July 21, 1978;
Readopted Eff. August 1, 2020.*