

2025 SENATE AGRICULTURE AND VETERANS AFFAIRS

SB 2086

2025 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

SB 2086

1/9/2025

A bill relating to pesticide certification standards.

10:03 a.m. Chairman Luick opened the meeting.

Members present: Chairman Luick, Vice Chairman Myrdal, Senators Lemm, Weber, Weston, Marcellais.

Discussion Topics:

- Update certification standards
- Committee Action

10:04 a.m. Lukas Wagner, Director of ND Pesticide and Fertilizer, Department of Agriculture testified in favor and submitted written testimony #28252.

10:06 a.m. Chairman Luick closed the hearing.

10:06 a.m. Senator Weber moved a Do Pass.

Senator Weston seconded the motion.

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	A
Senator Randy D. Lemm	Y
Senator Richard Marcellais	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 5-0-1

Senator Weber will carry the bill.

10:07 a.m. Chairman Luick closed the meeting.

Audrey Oswald by Carol Thompson, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2086 ([25.8120.01000](#))

Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING), and be placed on the Eleventh order on the calendar. This bill does not affect workforce development.

COMMISSIONER
DOUG GOEHRING



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NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E. BOULEVARD AVE. – DEPT. 602
BISMARCK, ND 58505-0020

Testimony of Lukas Wagner
Pesticide and Fertilizer Division Director
Senate Agriculture and Veteran Affairs Committee
Fort Union Room
January 9, 2025

Good morning, Chairman Luick and members of the Senate Agriculture and Veteran Affairs Committee. My name is Lukas Wagner, the Pesticide and Fertilizer Division Director for Department of Agriculture. I am here today on behalf of Ag Commissioner Goehring to provide support for SB 2086 which amends chapter 4.1-33 of the North Dakota Century Code regarding pesticide certification standards. This bill proposes updating the state certification standards to meet the new federal requirements.

These changes will bring North Dakota certification standards up to date according to the EPA directive contained in the 2017 revisions to 40 CFR Part 171 found in Citation 952 of Volume 82 in the Federal Register. These proposed changes have already been reviewed and approved by the EPA. This will allow the state to continue implementing the certification program for the state's applicators.

Chairman Luick and committee members, thank you for your consideration of SB 2086. I would be happy to answer any questions you may have.

2025 HOUSE AGRICULTURE

SB 2086

2025 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee Room JW327C, State Capitol

SB 2086
3/6/2025

A BILL for an Act to create and enact a new section to chapter 4.1-33 of the North Dakota Century Code, relating to pesticide certification standards; and to amend and reenact sections 4.1-33-01 and 4.1-33-03, subdivision b of subsection 1 of section 4.1-33-12, section 4.1-33-13, subsection 1 of section 4.1-33-16, and subsection 5 of section 4.1-33-20 of North Dakota Century Code, relating to pesticide control.

9:14 a.m. Chairman Beltz opened the meeting.

Members Present: Chairman Beltz, Vice Chairman Hauck, Representatives Anderson, Dobervich, Henderson, Hoverson, Kiefert, Nehring, Olson, Rios, Schreiber-Beck, Tveit, Vollmer

Member Absent: Representative Holle

Discussion Topics:

- Updating standards
- EPA approval process
- Direct supervision
- Annual NDSU training
- County extension agent
- Recertifications each 3 years

9:14 a.m. Lukas Wagner, Pesticide and Fertilizer Division Director, ND Department of Agriculture, testified in favor and submitted testimony #38863.

9:25 a.m. Representative Schreiber-Beck moved Do Pass.

9:25 a.m. Representative Dobervich seconded the motion.

Representatives	Vote
Representative Mike Beltz	Y
Representative Dori Hauck	Y
Representative Karen A. Anderson	Y
Representative Gretchen Dobervich	Y
Representative Donna Henderson	N
Representative Dawson Holle	AB
Representative Jeff Hoverson	N
Representative Dwight Kiefert	Y
Representative Dennis Nehring	N
Representative SuAnn Olson	N
Representative Nico Rios	AB

Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	AB
Representative Daniel R. Vollmer	Y

Motion 7-5-2

9:30 a.m. Representative Keifert will carry the bill.

9:30 a.m. Chairman Beltz closed the meeting.

Diane Lillis, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2086 ([25.8120.01000](#))

Agriculture Committee (Rep. Beltz, Chairman) recommends **DO PASS** (7 YEAS, 5 NAYS, 2 ABSENT OR EXCUSED AND NOT VOTING). SB 2086 was placed on the Fourteenth order on the calendar.

COMMISSIONER
DOUG GOEHRING



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NORTH DAKOTA
DEPARTMENT OF AGRICULTURE
STATE CAPITOL
600 E. BOULEVARD AVE. – DEPT. 602
BISMARCK, ND 58505-0020

Testimony of Lukas Wagner
Pesticide and Fertilizer Division Director
House Agriculture
J-Wing Room 327C
March 6, 2025

Good morning, Chairman Beltz and members of the House Agriculture Committee. My name is Lukas Wagner, the Pesticide and Fertilizer Division Director for Department of Agriculture. I am here today on behalf of Ag Commissioner Goehring to provide support for SB 2086 which amends chapter 4.1-33 of the North Dakota Century Code regarding pesticide certification standards. This bill proposes updating the state certification standards to meet the new federal requirements.

These changes will bring North Dakota certification standards up to date according to the EPA directive contained in the 2017 revisions to 40 CFR Part 171 found in Citation 952 of Volume 82 in the Federal Register. These proposed changes have already been reviewed and approved by the EPA. This will allow the state to continue implementing the certification program for the state's applicators.

Chairman Beltz and committee members, thank you for your consideration of SB 2086. I would be happy to answer any questions you may have.

2025 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee Room JW327C, State Capitol

SB 2086
3/14/2025

A BILL for an Act to create and enact a new section to chapter 4.1-33 of the North Dakota Century Code, relating to pesticide certification standards; and to amend and reenact sections 4.1-33-01 and 4.1-33-03, subdivision b of subsection 1 of section 4.1-33-12, section 4.1-33-13, subsection 1 of section 4.1-33-16, and subsection 5 of section 4.1-33-20 of North Dakota Century Code, relating to pesticide control.

9:45 a.m. Chairman Beltz opened the meeting.

Members Present: Chairman Beltz, Vice Chairman Hauck, Representatives Anderson, Dobervich, Henderson, Holle, Hoverson, Kiefert, Nehring, Olson, Rios, Schreiber-Beck, Tveit, Vollmer

Discussion Topics:

- Proposed Amendment
- Committee Action

9:45 a.m. Representative Holle moved to Reconsider the bill.

9:45 a.m. Representative Henderson seconded the motion.

9:46 a.m. Voice vote/Motion passed.

9:46 a.m. Chairman Beltz Explains amendment

10:11 a.m. Representative Henderson moved to adopt amendment LC 25.8120.01001 (Testimony #41576)

10:11 a.m. Representative Hollie Moved to second motion.

10:12 a.m. Voice Vote/Motion Passed

10:12 a.m. Representative Henderson Moved for a Do Pass as Amended

10:12 a.m. Representative Vollmer Seconded motion.

Roll Call Vote

Representatives	Vote
Representative Mike Beltz	Y
Representative Dori Hauck	Y

Representative Karen A. Anderson	Y
Representative Gretchen Dobervich	Y
Representative Donna Henderson	Y
Representative Dawson Holle	Y
Representative Jeff Hoverson	Y
Representative Dwight Kiefert	Y
Representative Dennis Nehring	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Daniel R. Vollmer	Y

Motion Passed 14-0-0.

10:13 a.m. Representative Keifert will carry the bill.

10:13 a.m. Chairman Beltz closed the meeting.

Diane Lillis, Committee Clerk by Risa Berube

CO
1/14/25
1049

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2086

Introduced by

Agriculture and Veterans Affairs Committee

(At the request of the Agriculture Commissioner)

1 A BILL for an Act to create and enact a new section to chapter 4.1-33 of the North Dakota
2 Century Code, relating to pesticide certification standards; and to amend and reenact sections
3 4.1-33-01 and 4.1-33-03, subdivision b of subsection 1 of section 4.1-33-12, section 4.1-33-13,
4 subsection 1 of section 4.1-33-16, and subsection 5 of section 4.1-33-20 of North Dakota
5 Century Code, relating to pesticide control.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 **SECTION 1. AMENDMENT.** Section 4.1-33-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **4.1-33-01. Definitions.**

10 As used in this chapter:

- 11 1. "Animal" means ~~all~~-vertebrate and invertebrate species, including humans and other
12 mammals, birds, fish, and shellfish.
- 13 2. "Antimicrobial pesticide" means a substance or mixture of substances intended for
14 preventing, destroying, repelling, suppressing, or mitigating the growth of
15 micro-organisms, including bacteria, viruses, and fungi on inanimate objects and
16 surfaces.
- 17 3. "Applicator" means ~~any~~a person who applies a pesticide to land.
- 18 4. "Certified applicator" means ~~any~~an individual who is certified under this chapter to
19 purchase or use a restricted use pesticide.

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- 1 5. "Commercial applicator" means a person who, by contract or for hire, engages in the
2 business of applying pesticides for compensation.
- 3 6. "Defoliant" means ~~anya~~ anya substance or mixture of substances intended to cause the
4 leaves or foliage to drop from a plant, with or without causing abscission.
- 5 7. "Desiccant" means ~~anya~~ anya substance or mixture of substances intended to artificially
6 accelerate the drying of plant tissue.
- 7 8. "Device" means ~~anyan~~ anya instrument or contrivance, other than a firearm, which is
8 intended for trapping, destroying, repelling, or mitigating any pest or any other form of
9 plant or animal life, other than human and other than bacteria, virus, or other
10 micro-organism on or in living humans or other living animals, but not including
11 equipment used for the application of pesticides when sold separately from pesticide.
- 12 9. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver, or supply
13 pesticides in ~~this~~ the state.
- 14 10. "Environment" includes water, air, land, and all plants ~~and~~ and humans and other animals
15 living ~~therein~~ there, and the interrelationships ~~that exist~~ existing among them.
- 16 11. "Equipment" means ~~anya~~ anya type of ground, water, or aerial equipment or contrivance
17 using motorized, mechanical, or pressurized power and used to apply ~~anya~~ anya pesticide
18 on land and anything that may be growing, inhabiting, or stored on or in that land. The
19 term does not include ~~anya~~ anya pressurized hand-held household apparatus used to apply
20 ~~anya~~ anya pesticide, or ~~any~~ anya equipment or contrivance of which the individual who is
21 applying the pesticide is the source of power or energy to make the pesticide
22 application.
- 23 12. "Fungus" means ~~anya~~ anya non-chlorophyll-bearing thallophytes, that is, ~~anya~~ anya
24 non-chlorophyll-bearing plant of a lower order than mosses and liverworts as, for
25 example, rust, smut, mildew, mold, yeast, and bacteria, except ~~these~~ fungus on or in
26 living humans or other living animals, and except ~~these~~ fungus on or in processed food,
27 beverages, or pharmaceuticals.
- 28 13. "Insect" means ~~anyone~~ anyone of the numerous small invertebrate animals generally having
29 the body more or less obviously segmented, for the most part belonging to the class of
30 insecta, comprising six-legged, usually winged forms, and to other allied classes of

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- 1 | arthropods ~~whose~~for which members are wingless and usually have more than six
2 | legs.
- 3 | 14. "Label" means the written, printed, or graphic matter on, or attached to, the pesticide
4 | or device or any of ~~its~~the pesticide or device's containers or wrappers.
- 5 | 15. "Labeling" means the label and ~~all~~-other written, printed, or graphic matter:
6 | a. Accompanying the pesticide or device; or
7 | b. To which reference is made on the label or in literature accompanying or referring
8 | to the pesticide, except when accurate nonmisleading references are made to
9 | current official publications of the board, the United States environmental
10 | protection agency, the United States departments of agriculture and interior, the
11 | United States department of health and human services, state agricultural
12 | colleges, and other similar federal or state institutions or agencies authorized by
13 | law to conduct research in the field of pesticides.
- 14 | 16. "Land" means ~~all~~-land and water areas, including airspace, and ~~all~~-plants, animals,
15 | structures, buildings, contrivances, and machinery, appurtenant to or situated on land,
16 | fixed or mobile, including any used for transportation.
- 17 | 17. "Nematode" means an invertebrate ~~animals~~animal of the phylum nemathelminthes,
18 | and class nematoda, i.e., unsegmented round worms with elongated, fusiform, or
19 | saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts,
20 | may also be called nemas or eelworms.
- 21 | 18. "Pest" means ~~any~~an insect, rodent, nematode, fungus, or weed; or ~~any~~-other form of
22 | terrestrial or aquatic plant or animal life, viruses, bacteria, or other micro-organism,
23 | except viruses, bacteria, or other micro-organisms on or in living humans or other
24 | living animals.
- 25 | 19. "Pesticide" means:
26 | a. ~~Any~~A substance or mixture of substances intended for preventing, destroying,
27 | repelling, or mitigating any pest; and
28 | b. ~~Any~~A substance or mixture of substances intended for use as a plant regulator,
29 | defoliant, or desiccant.

- 1 20. "Pesticide certification standards" means the requirements under title 40, Code of
2 Federal Regulations, sections 171.101 through 171.107, as those sections existed on
3 January 4, 2017.
- 4 21. "Pesticide dealer" means ~~any~~a person, other than a pesticide wholesaler, distributing
5 pesticides.
- 6 21-22. "Plant regulator" means ~~any~~a substance or mixture of substances intended, through
7 physiological action, to accelerate or retard the rate of growth or rate of maturation, or
8 to otherwise alter the behavior of plants or the produce thereof, but does not include
9 substances to the extent that they are intended as plant nutrients, trace elements,
10 nutritional chemicals, plant inoculants, or soil amendments.
- 11 22-23. "Private applicator" means an individual who is required to be a certified applicator to
12 buy or use a restricted use pesticide on property owned or rented by the applicator or
13 the applicator's employer or, if applied without compensation other than trading of
14 personal services between producers of agricultural commodities, on the property of
15 another person.
- 16 23-24. "Public applicator" means an applicator who applies pesticides, other than
17 ready-to-use pesticides, as an employee of:
- 18 a. A governmental agency, municipal corporation, or public utility; or
19 b. A hospital, privately owned golf course, nursery, or greenhouse.
- 20 24-25. "Ready-to-use pesticide" means a pesticide other than a restricted use pesticide which
21 is applied directly from its original container consistent with label directions, and
22 includes aerosol spray cans, ready-to-use spray containers, bait packs, and other
23 types of containers that do not require mixing or loading before application.
- 24 25-26. "Restricted use pesticide" means ~~any~~a pesticide formulation ~~that is~~ classified as
25 restricted use by the United States environmental protection agency or the agriculture
26 commissioner under section 4.1-34-06.
- 27 26-27. "Rinsate" means a diluted mixture of pesticide obtained from triple rinsing or pressure
28 rinsing pesticide containers or from rinsing the inside and outside of spray equipment.
- 29 27-28. "Tank mix" means ~~any~~a pesticidal formulation used alone or in combination with
30 another pesticide and mixed with a liquid carrier prior to application.

28-29. "Unreasonable adverse effects on the environment" means ~~any~~an unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

29-30. "Weed" means ~~any~~a plant that grows where not wanted.

30-31. "Wildlife" means ~~all~~-living things that are ~~neither~~not human, domesticated, ~~nor~~or, as defined in this chapter, pests, including mammals, birds, and aquatic life.

SECTION 2. A new section to chapter 4.1-33 of the North Dakota Century Code is created and enacted as follows:

Standards for pesticide certification.

The pesticide certification standards as defined under section 4.1-33-01, are incorporated by reference and made part of this chapter.

SECTION 3. AMENDMENT. Section 4.1-33-03 of the North Dakota Century Code is amended and reenacted as follows:

4.1-33-03. Pesticide control board to administer chapter and adopt rules.

1. a. The pesticide control board shall administer this chapter and may adopt rules under chapter 28-32 to implement this chapter. The rules may prescribe methods to be used in the application of pesticides. The rules may relate to the time, place, manner, methods, materials, and amounts and concentrations, in connection with the application of the pesticide, and may restrict or prohibit use of pesticides in designated areas during specified periods of time and ~~shall~~must encompass all reasonable factors ~~which~~that the board deems necessary to prevent damage or injury by drift or misapplication to:

- (1) Plants, including forage plants, on adjacent or nearby lands.
- (2) Wildlife in the adjoining or nearby areas.
- (3) Fish and other aquatic life in waters in proximity to the area to be treated.
- (4) Persons, animals, or beneficial insects.

- b. In adopting rules, the board shall give consideration to pertinent research findings and recommendations of other agencies of ~~this~~the state, ~~the~~-federal government, or other reliable sources.

2. In adopting rules under this chapter, the board shall prescribe standards and requirements for the certification of applicators of pesticides. ~~These~~The standards and

1 requirements must relate to the use and handling of pesticides. In determining
2 ~~these~~the standards and requirements, the board shall ~~take into consideration~~adopt
3 standards and requirements prescribed by the United States environmental protection
4 agency in the pesticide certification standards.

5 3. Rules adopted under this chapter may not permit any pesticide use that is prohibited
6 by the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.] or
7 regulations or orders issued thereunder.

8 4. To comply with the pesticide certification standards and the Federal Insecticide,
9 Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.], the board ~~may~~shall make
10 reports to the United States environmental protection agency in the form and
11 containing the information as ~~that~~the agency requires.

12 5. Rules to implement this chapter may provide for:
13 a. The collection, examination, and reporting of samples of pesticides.
14 b. The safe handling, transportation, storage, display, distribution, and disposal of
15 pesticides and pesticides containers.
16 c. The identification of pests under this chapter ~~when~~if the board finds particular
17 organisms to be annoying or otherwise injurious or harmful to agriculture, health,
18 and the environment.

19 **SECTION 4. AMENDMENT.** Subdivision b of subsection 1 of section 4.1-33-12 of the North
20 Dakota Century Code is amended and reenacted as follows:

21 b. An individual who would be a private applicator, if certified, may not use any
22 restricted use pesticide unless the individual:
23 (1) ~~Complies~~ complies with the certification requirements established by the
24 board; or
25 (2) Is under the direct supervision of a certified applicator while applying a
26 restricted use herbicide.

27 **SECTION 5. AMENDMENT.** Section 4.1-33-13 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **4.1-33-13. Unlawful acts – ~~Grounds~~and grounds for denial, suspension, or revocation**
30 **of a certification.**

31 1. It is a violation of this chapter for ~~any~~a person to:

- 1 ~~1.~~ a. Make false or fraudulent claims through any media, misrepresenting the effect of

2 materials or methods to be utilized, or advertise a pesticide without reference to

3 its classification.
- 4 ~~2.~~ b. Make a pesticide recommendation, application, or use inconsistent with the

5 labeling or other restrictions prescribed by the board.
- 6 ~~3.~~ c. Apply materials known by that person to be ineffective or improper.
- 7 ~~4.~~ d. Operate faulty or unsafe equipment.
- 8 ~~5.~~ e. Operate in a faulty, careless, or negligent manner.
- 9 ~~6.~~ f. Neglect or, after notice, refuse to comply with this chapter, the rules adopted to

10 implement this chapter, or any lawful order of the commissioner.
- 11 ~~7.~~ g. Refuse or neglect to keep and maintain the records required by this chapter or to

12 make reports when and as required.
- 13 ~~8.~~ h. Make false or fraudulent records, invoices, or reports.
- 14 ~~9.~~ i. Apply pesticide to the property of another, without the permission of the owner or

15 lessee, unless the application is made under the direction of a governmental

16 entity.
- 17 ~~10.~~ j. Use fraud or misrepresentation in making an application for, or for renewal of,

18 certification.
- 19 ~~11.~~ k. Refuse or neglect to comply with any limitations or restrictions on or in a duly

20 issued certification.
- 21 ~~12.~~ l. Aid or abet a person to evade this chapter, conspire with a person to evade this

22 chapter, or allow the person's certification to be used by another person.
- 23 ~~13.~~ m. Knowingly make false statements during or after an inspection or an

24 investigation.
- 25 ~~14.~~ n. Impersonate a federal, state, county, or city inspector or official.
- 26 ~~15.~~ o. Distribute any restricted use pesticide to any person who is not properly certified

27 to use or purchase the pesticide.
- 28 ~~16.~~ p. Buy, use, or supervise the use of any pesticide without first complying with the

29 certification requirements of this chapter, unless otherwise exempted.
- 30 ~~17.~~ q. Apply any pesticide that is not registered under chapter 4.1-34.

1 2. A certification issued under this chapter may be denied, removed, or suspended if a
2 person:

3 a. Receives a criminal conviction under section 136l of the Federal Insecticide,
4 Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.];

5 b. Is subject to a final order imposing a civil penalty under section 136l of the
6 Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]; or

7 c. Is subject to a concluded enforcement action for a violation of state law or
8 regulation relating to pesticide use.

9 **SECTION 6. AMENDMENT.** Subsection 1 of section 4.1-33-16 of the North Dakota Century
10 Code is amended and reenacted as follows:

11 1. The certification requirements of this chapter do not apply to an individual applying
12 nonrestricted use pesticides under the direct supervision of a private or commercial
13 applicator, unless the pesticide label requires that a certified applicator personally
14 apply the pesticide. A pesticide is applied under the direct supervision of a private or
15 commercial applicator if the pesticide is applied by an individual acting under the
16 instruction and control of a certified applicator who is physically available if needed.
17 The certified applicator need not be present when the pesticide is applied. Direct
18 supervision with respect to applications using aircraft requires that the pilot of the
19 aircraft be appropriately certified. The certification requirements of this chapter do not
20 apply to a competent person applying a restricted use pesticidesherbicide under the
21 direct supervision of a private applicator, unless the pesticideherbicide label requires
22 that a certified applicator personally apply the particular pesticideherbicide. ~~A~~
23 ~~pesticide~~An herbicide is deemed to be applied under the direct supervision of a private
24 applicator if it is applied by a competent person acting under the instruction and
25 control of a private applicator who is available if ~~and when~~-needed, even though the
26 private applicator is not physically present at the time and place ~~that~~ the
27 ~~pesticide~~herbicide is applied.

28 **SECTION 7. AMENDMENT.** Subsection 5 of section 4.1-33-20 of the North Dakota Century
29 Code is amended and reenacted as follows:

30 5. After providing an opportunity for a hearing, the commissioner may deny, suspend,
31 revoke, or modify the provision of any certification issued under this chapter, if the

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1 commissioner determines that the applicant for certification or the holder of a
2 certificate has violated this chapter or any rules adopted under this chapter, or has a
3 criminal conviction ~~is~~ subject to a final order imposing a civil penalty under section 136l
4 of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.].

**REPORT OF STANDING COMMITTEE
SB 2086**

Agriculture Committee (Rep. Beltz, Chairman) recommends **AMENDMENTS** ([25.8120.01001](#)) and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2086 was placed on the Sixth order on the calendar.

25.8120.01001
Title.

Prepared by the Legislative Council
staff for Representative Beltz
March 11, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2086

Introduced by

Agriculture and Veterans Affairs Committee

(At the request of the Agriculture Commissioner)

1 A BILL for an Act to create and enact a new section to chapter 4.1-33 of the North Dakota
2 Century Code, relating to pesticide certification standards; and to amend and reenact sections
3 4.1-33-01 and 4.1-33-03, subdivision b of subsection 1 of section 4.1-33-12, section 4.1-33-13,
4 subsection 1 of section 4.1-33-16, and subsection 5 of section 4.1-33-20 of North Dakota
5 Century Code, relating to pesticide control.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 **SECTION 1. AMENDMENT.** Section 4.1-33-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **4.1-33-01. Definitions.**

10 As used in this chapter:

- 11 1. "Animal" means all vertebrate and invertebrate species, including humans and other
12 mammals, birds, fish, and shellfish.
- 13 2. "Antimicrobial pesticide" means a substance or mixture of substances intended for
14 preventing, destroying, repelling, suppressing, or mitigating the growth of
15 micro-organisms, including bacteria, viruses, and fungi on inanimate objects and
16 surfaces.
- 17 3. "Applicator" means any person who applies a pesticide to land.
- 18 4. "Certified applicator" means any individual who is certified under this chapter to
19 purchase or use a restricted use pesticide.

- 1 5. "Commercial applicator" means a person who, by contract or for hire, engages in the
2 business of applying pesticides for compensation.
- 3 6. "Defoliant" means any substance or mixture of substances intended to cause the
4 leaves or foliage to drop from a plant, with or without causing abscission.
- 5 7. "Desiccant" means any substance or mixture of substances intended to artificially
6 accelerate the drying of plant tissue.
- 7 8. "Device" means any instrument or contrivance, other than a firearm, which is intended
8 for trapping, destroying, repelling, or mitigating any pest or any other form of plant or
9 animal life, other than human and other than bacteria, virus, or other micro-organism
10 on or in living humans or other living animals, but not including equipment used for the
11 application of pesticides when sold separately from pesticide.
- 12 9. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver, or supply
13 pesticides in this state.
- 14 10. "Environment" includes water, air, land, and all plants and humans and other animals
15 living therein, and the interrelationships that exist among them.
- 16 11. "Equipment" means any type of ground, water, or aerial equipment or contrivance
17 using motorized, mechanical, or pressurized power and used to apply any pesticide on
18 land and anything that may be growing, inhabiting, or stored on or in that land. The
19 term does not include any pressurized hand-held household apparatus used to apply
20 any pesticide, or any equipment or contrivance of which the individual who is applying
21 the pesticide is the source of power or energy to make the pesticide application.
- 22 12. "Fungus" means any non-chlorophyll-bearing thallophytes, that is, any
23 non-chlorophyll-bearing plant of a lower order than mosses and liverworts as, for
24 example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living
25 humans or other living animals, and except those on or in processed food, beverages,
26 or pharmaceuticals.
- 27 13. "Insect" means any of the numerous small invertebrate animals generally having the
28 body more or less obviously segmented, for the most part belonging to the class of
29 insecta, comprising six-legged, usually winged forms, and to other allied classes of
30 arthropods whose members are wingless and usually have more than six legs.

- 1 14. "Label" means the written, printed, or graphic matter on, or attached to, the pesticide
2 or device or any of its containers or wrappers.
- 3 15. "Labeling" means the label and all other written, printed, or graphic matter:
4 a. Accompanying the pesticide or device; or
5 b. To which reference is made on the label or in literature accompanying or referring
6 to the pesticide, except when accurate nonmisleading references are made to
7 current official publications of the board, the United States environmental
8 protection agency, the United States departments of agriculture and interior, the
9 United States department of health and human services, state agricultural
10 colleges, and other similar federal or state institutions or agencies authorized by
11 law to conduct research in the field of pesticides.
- 12 16. "Land" means all land and water areas, including airspace, and all plants, animals,
13 structures, buildings, contrivances, and machinery, appurtenant to or situated on land,
14 fixed or mobile, including any used for transportation.
- 15 17. "Nematode" means invertebrate animals of the phylum nemathelminthes, and class
16 nematoda, i.e., unsegmented round worms with elongated, fusiform, or saclike bodies
17 covered with cuticle, and inhabiting soil, water, plants, or plant parts, may also be
18 called nemas or eelworms.
- 19 18. "Pest" means any insect, rodent, nematode, fungus, or weed; or any other form of
20 terrestrial or aquatic plant or animal life, viruses, bacteria, or other micro-organism,
21 except viruses, bacteria, or other micro-organisms on or in living humans or other
22 living animals.
- 23 19. "Pesticide" means:
24 a. Any substance or mixture of substances intended for preventing, destroying,
25 repelling, or mitigating any pest; and
26 b. Any substance or mixture of substances intended for use as a plant regulator,
27 defoliant, or desiccant.
- 28 20. "Pesticide certification standards" means the requirements under title 40, Code of
29 Federal Regulations, sections 171.101 through 171.107, as those sections existed on
30 January 4, 2017.

1 21. "Pesticide dealer" means any person, other than a pesticide wholesaler, distributing
2 pesticides.

3 ~~21.~~22. "Plant regulator" means any substance or mixture of substances intended, through
4 physiological action, to accelerate or retard the rate of growth or rate of maturation, or
5 to otherwise alter the behavior of plants or the produce thereof, but does not include
6 substances to the extent that they are intended as plant nutrients, trace elements,
7 nutritional chemicals, plant inoculants, or soil amendments.

8 ~~22.~~23. "Private applicator" means an individual who is required to be a certified applicator to
9 buy or use a restricted use pesticide on property owned or rented by the applicator or
10 the applicator's employer or, if applied without compensation other than trading of
11 personal services between producers of agricultural commodities, on the property of
12 another person.

13 ~~23.~~24. "Public applicator" means an applicator who applies pesticides, other than
14 ready-to-use pesticides, as an employee of:

15 a. A governmental agency, municipal corporation, or public utility; or

16 b. A hospital, privately owned golf course, nursery, or greenhouse.

17 ~~24.~~25. "Ready-to-use pesticide" means a pesticide other than a restricted use pesticide which
18 is applied directly from its original container consistent with label directions, and
19 includes aerosol spray cans, ready-to-use spray containers, bait packs, and other
20 types of containers that do not require mixing or loading before application.

21 ~~25.~~26. "Restricted use pesticide" means any pesticide formulation that is classified as
22 restricted use by the United States environmental protection agency or the agriculture
23 commissioner under section 4.1-34-06.

24 ~~26.~~27. "Rinsate" means a diluted mixture of pesticide obtained from triple rinsing or pressure
25 rinsing pesticide containers or from rinsing the inside and outside of spray equipment.

26 ~~27.~~28. "Tank mix" means any pesticidal formulation used alone or in combination with another
27 pesticide and mixed with a liquid carrier prior to application.

28 ~~28.~~29. "Unreasonable adverse effects on the environment" means any unreasonable risk to
29 humans or the environment, taking into account the economic, social, and
30 environmental costs and benefits of the use of any pesticide.

31 ~~29.~~30. "Weed" means any plant that grows where not wanted.

1 ~~30:31.~~ "Wildlife" means all living things that are neither human, domesticated, nor, as defined
2 in this chapter, pests, including mammals, birds, and aquatic life.

3 **SECTION 2.** A new section to chapter 4.1-33 of the North Dakota Century Code is created
4 and enacted as follows:

5 **Standards for pesticide certification.**

6 The pesticide certification standards as defined under section 4.1-33-01, are incorporated
7 by reference and made part of this chapter.

8 **SECTION 3. AMENDMENT.** Section 4.1-33-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **4.1-33-03. Pesticide control board to administer chapter and adopt rules.**

- 11 1. a. The pesticide control board shall administer this chapter and may adopt rules
12 under chapter 28-32 to implement this chapter. The rules may prescribe methods
13 to be used in the application of pesticides. The rules may relate to the time,
14 place, manner, methods, materials, and amounts and concentrations, in
15 connection with the application of the pesticide, and may restrict or prohibit use of
16 pesticides in designated areas during specified periods of time and shall
17 encompass all reasonable factors which the board deems necessary to prevent
18 damage or injury by drift or misapplication to:
- 19 (1) Plants, including forage plants, on adjacent or nearby lands.
 - 20 (2) Wildlife in the adjoining or nearby areas.
 - 21 (3) Fish and other aquatic life in waters in proximity to the area to be treated.
 - 22 (4) Persons, animals, or beneficial insects.
- 23 b. In adopting rules, the board shall give consideration to pertinent research findings
24 and recommendations of other agencies of this state, the federal government, or
25 other reliable sources.
- 26 2. In adopting rules under this chapter, the board shall prescribe standards and
27 requirements for the certification of applicators of pesticides. These standards and
28 requirements must relate to the use and handling of pesticides. In determining these
29 standards and requirements, the board shall ~~take into consideration~~ adopt standards
30 and requirements prescribed by the United States environmental protection agency in
31 the pesticide certification standards.

3. Rules adopted under this chapter may not permit any pesticide use that is prohibited by the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.] or regulations or orders issued thereunder.

4. To comply with the pesticide certification standards and the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.], the board ~~may~~shall make reports to the United States environmental protection agency in the form and containing the information as that agency requires.

5. Rules to implement this chapter may provide for:

- a. The collection, examination, and reporting of samples of pesticides.
- b. The safe handling, transportation, storage, display, distribution, and disposal of pesticides and pesticides containers.
- c. The identification of pests under this chapter when the board finds particular organisms to be annoying or otherwise injurious or harmful to agriculture, health, and the environment.

SECTION 4. AMENDMENT. Subdivision b of subsection 1 of section 4.1-33-12 of the North Dakota Century Code is amended and reenacted as follows:

b. An individual who would be a private applicator, if certified, may not use any restricted use pesticide unless the individual:

- (1) ~~Complies~~ complies with the certification requirements established by the board; or
- (2) Is under the direct supervision of a certified applicator while applying a restricted use herbicide.

SECTION 5. AMENDMENT. Section 4.1-33-13 of the North Dakota Century Code is amended and reenacted as follows:

4.1-33-13. Unlawful acts –~~Grounds and grounds~~ for denial, suspension, or revocation of a certification.

1. It is a violation of this chapter for any person to:

- ~~4.~~ a. Make false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized, or advertise a pesticide without reference to its classification.

- 1 2. b. Make a pesticide recommendation, application, or use inconsistent with the
- 2 labeling or other restrictions prescribed by the board.
- 3 ~~3.~~ c. Apply materials known by that person to be ineffective or improper.
- 4 4. d. Operate faulty or unsafe equipment.
- 5 ~~5.~~ e. Operate in a faulty, careless, or negligent manner.
- 6 ~~6.~~ f. Neglect or, after notice, refuse to comply with this chapter, the rules adopted to
- 7 implement this chapter, or any lawful order of the commissioner.
- 8 ~~7.~~ g. Refuse or neglect to keep and maintain the records required by this chapter or to
- 9 make reports when and as required.
- 10 ~~8.~~ h. Make false or fraudulent records, invoices, or reports.
- 11 ~~9.~~ i. Apply pesticide to the property of another, without the permission of the owner or
- 12 lessee, unless the application is made under the direction of a governmental
- 13 entity.
- 14 ~~10.~~ j. Use fraud or misrepresentation in making an application for, or for renewal of,
- 15 certification.
- 16 ~~11.~~ k. Refuse or neglect to comply with any limitations or restrictions on or in a duly
- 17 issued certification.
- 18 ~~12.~~ l. Aid or abet a person to evade this chapter, conspire with a person to evade this
- 19 chapter, or allow the person's certification to be used by another person.
- 20 ~~13.~~ m. Knowingly make false statements during or after an inspection or an
- 21 investigation.
- 22 ~~14.~~ n. Impersonate a federal, state, county, or city inspector or official.
- 23 ~~15.~~ o. Distribute any restricted use pesticide to any person who is not properly certified
- 24 to use or purchase the pesticide.
- 25 ~~16.~~ p. Buy, use, or supervise the use of any pesticide without first complying with the
- 26 certification requirements of this chapter, unless otherwise exempted.
- 27 ~~17.~~ q. Apply any pesticide that is not registered under chapter 4.1-34.
- 28 2. A certification issued under this chapter may be denied, removed, or suspended if a
- 29 person:
- 30 a. Receives a criminal conviction under section 136l of the Federal Insecticide,
- 31 Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.];

- b. Is subject to a final order imposing a civil penalty under section 136l of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]; or
- c. Is subject to a concluded enforcement action for a violation of state law or regulation relating to pesticide use.

SECTION 6. AMENDMENT. Subsection 1 of section 4.1-33-16 of the North Dakota Century Code is amended and reenacted as follows:

1. The certification requirements of this chapter do not apply to an individual applying nonrestricted use pesticides under the direct supervision of a private or commercial applicator, unless the pesticide label requires that a certified applicator personally apply the pesticide. A pesticide is applied under the direct supervision of a private or commercial applicator if the pesticide is applied by an individual acting under the instruction and control of a certified applicator who is physically available if needed. The certified applicator need not be present when the pesticide is applied. Direct supervision with respect to applications using aircraft requires that the pilot of the aircraft be appropriately certified. The certification requirements of this chapter do not apply to a competent person applying a restricted use pesticide herbicide under the direct supervision of a private applicator, unless the pesticide herbicide label requires that a certified applicator personally apply the particular pesticide herbicide. A pesticide herbicide is deemed to be applied under the direct supervision of a private applicator if it is applied by a competent person acting under the instruction and control of a private applicator who is available if and when needed, even though the private applicator is not physically present at the time and place that the pesticide herbicide is applied.

SECTION 7. AMENDMENT. Subsection 5 of section 4.1-33-20 of the North Dakota Century Code is amended and reenacted as follows:

5. After providing an opportunity for a hearing, the commissioner may deny, suspend, revoke, or modify the provision of any certification issued under this chapter, if the commissioner determines that the applicant for certification or the holder of a certificate has violated this chapter or any rules adopted under this chapter, or has a criminal conviction is subject to a final order imposing a civil penalty under section 136l of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.].

2025 SENATE AGRICULTURE AND VETERANS AFFAIRS

SB 2086

2025 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

SB 2086

3/21/2025

AN ACT to create and enact a new section to chapter 4.1-33 of the North Dakota Century Code, relating to pesticide certification standards; and to amend and reenact sections 4.1-33-01 and 4.1-33-03, subdivision b of subsection 1 of section 4.1-33-12, section 4.1-33-13, subsection 1 of section 4.1-33-16, and subsection 5 of section 4.1-33-20 of North Dakota Century Code, relating to pesticide control.

9:25 a.m. Chairman Luick called the meeting to order.

Members present: Chairman Luick, Vice-Chairwoman Myrdal, Senator Weston, Senator Weber, Senator Lemm

Discussion Topics:

- House changes to SB 2086

9:26 a.m. Senator Myrdal requests to have Ag Dept explain content changes made by House.

9:27 a.m. Chair Luick closes discussion.

Audrey Oswald, Committee Clerk by Lynn Wolf, Chief Clerk