



Pesticide and Noxious Weed Newsletter

Winter 2008-09

Nebraska Department of Agriculture

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2008 Enforcement Wrap-up

Aerial Applications

The summer of 2008 will go down in the books as a year in which high crop prices, high insect and disease pressure, and significant marketing programs by pesticide companies combined to create one of the busiest aerial spray seasons in the last 20 years. These factors resulted in a record number of spray drift complaints received by the Nebraska Department of Agriculture (NDA), many of which were human exposure claims. The allegations of human or animal impacts included symptoms of headaches, nausea, itching/burning skin, and respiratory problems in humans, and vomiting, itching/burning skin, and weeping eyes in animals. One cat and one dog reportedly died from pesticide exposure in separate incidents.

NDA has investigated all non-frivolous complaints and is busy reviewing case reports. There are concerns that pesticide dealers are becoming more involved in contracting with farmers for aerial application work, then bringing in out-of-state pilots to spray the fields. This is due to a vacuum of available aerial applicators, but also due to dealers who see the late summer insecticide and fungicide market as a new source of revenue. There were problems found by NDA regarding this new trend. Many of the facilities used by pilots were remote and had no secondary containment or load-out

pads in place, even though they were mixing and loading high volumes of pesticides in a three- to five-week period. This is contrary to Title 198, the agriculture containment regulations administered by the Nebraska Department of Environmental Quality (NDEQ). Some ground crews were untrained as required by the Nebraska Pesticide Act, and not provided personal protective equipment (PPE) as required by the label. Application records for restricted-use pesticide applications were improperly completed and, in some cases, even lacked the information of who the customer was and how to contact them to provide application information. More airplanes applied pesticides near towns this year, resulting in a number of complaints about noise and drift. Very few of these concerns were caused by resident pilots who live in the community, know their customers, and have a long-term relationship with NDA. The problems were mostly caused by transient pilots who were hired to help out with the workload, were sometimes in and out of the state before NDA even knew they were here, and had no apparent concern about regulatory compliance with pesticide laws and regulations. NDA will very likely take action against the pilots involved in serious violations, as well as the people who were responsible for their actions.

who might enter the fields, thus complying with WPS. This information may help neighbors know what has been applied to fields bordering their homes or property, because they often don't know who to call regarding a pesticide application other than the property owner.

NDA documented situations where work orders used by aerial applicators had no name, address, or phone numbers for the farmers of the fields that were sprayed. The work orders would be returned to the local dealer soon after the application, but the dealer did not follow through on contacting the farmers to let them know the fields had been sprayed. In some incidents, the farmers themselves didn't even know what their fields had been sprayed with. This causes serious concern for NDA, especially when considering that many of the insecticides and fungicides used during this period of time are some of the most toxic products used during the growing season.

Improperly Applied Termiticides

NDA continues to encounter structural pesticide applicators who fail to properly apply termiticides. This is due to confusion with the labels, lack of knowledge on how to properly calibrate equipment, poor math skills, or outright fraud. Improperly applied termiticides is the most frequently heard complaint NDA receives. Termiticide labels are changing as chemical companies and the market evolves. New products replace old products, creating a need to develop new application techniques, but many applicators fail to fully understand how a newer product should be applied differently from one they are familiar with. In a number of cases, NDA encountered applicators who had old labels on hand for reference, but

WPS Notification Problems

NDA has noted that the lack of concern for regulatory compliance identified above often resulted in a breakdown of the established communications and notification between applicator and farmer, which is required by the Worker Protection Standard (WPS). This is important so the farmer/landowner can provide PPE and/or re-entry interval information to their family members and employees

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were using newer product that had a revised label. Referencing the old labels when applying new product can easily cause violations, because the new product labels might prohibit the use of the product in the way it was previously used. NDA conducts routine testing of termiticide solutions to verify applicators have properly mixed and loaded the product, and the consumer is getting what they paid for. Current regulations require termiticides be applied at or above specific minimum concentrations, so watering down the chemical to make it last, stretch the profit margin, or reduce the amount of work per job is considered a violation of the law.

Spray Tank Contamination

Perhaps you've heard the occasional rumor of pesticide applicators who didn't flush all the lines and hoses out when switching from one pesticide to another, subsequently damaging some crops or plants on the next spray job. It's even more eye opening when you hear of someone who sprayed numerous lawns or fields with the wrong product, not knowing what had been mixed in the tank earlier in the day. These are normally innocent, but expensive mistakes, and underscore the importance of two points:

1. The applicator of any pesticide is ultimately responsible for the application of the chemical, and should be present when someone else is mixing and loading the equipment.
2. Pay attention, know everything about the product you are using, and think ahead about special considerations that will avoid costly mistakes from happening. It's all about being professional and responsible.

Runoff of R-O-W Applications

Many areas of Nebraska experienced a rather wet spring this past year. Herbicides designed for season-long control of weeds on rights-of-way, vacant lots, parking areas, utility sites, and fence lines must be applied with an eye to the weather. Close reading of many residual right-of-way (R-O-W) labels finds very specific language about not applying the products within a certain number of hours or days before precipitation is expected. Applicators

need to know the runoff potential of residual herbicides so surface water (and groundwater) is not polluted. Many of the residual herbicides applied to R-O-W sites are extremely toxic to aquatic organisms, and care must be taken to prevent these products from running off the treated site into nearby drainage ditches that lead to streams.

Enforcement Actions

October 1, 2007 - September 30, 2008

Advisory Letter.....	34
Warning Letter.....	60
Record Keeping	
Notice of Violation.....	46
Notice of Certification	
Violation	3
Stop Sale, Use, or	
Removal Order	28
Referred to EPA (federal	
inspections)	7
License Action (Probation,	
Suspension, Revocation)	4
Penalty Actions	10
	(for \$21,115)

Total number of inspections.....	613
Total number of violations.....	211
Total number of enforcement	
actions	192

WPS Notification

If you apply pesticides to agricultural sites (row crops, greenhouses, plant nurseries), there is a group of people who need your help. Plant nursery and greenhouse employees, field scouts, seed corn companies who hire detasslers, and farming families need to know about the pesticide applications made to sites where they also work.

You may be familiar with a federal regulation called the Worker Protection Standard (WPS). Under the WPS, people making pesticide applications to an agricultural site MUST pass along specific information about their applications to the grower or employer. This Information Exchange must include the name of the specific product applied, its EPA registration number, active ingredient(s), the time of application, and the Restricted Entry Interval (REI). Growers are then responsible to pass pesticide application information (their own or that of a hired commercial applicator) to those they hire to work on their property.

This Information Exchange is obviously very important to the safety

of those working in agriculture. The information provided should prevent people from entering the treated site during periods of greatest concern. Hopefully, the information would never need to be passed along to an attending physician.

For additional information concerning the WPS, including brochures, manuals, videos, and CDs, please contact NDA at (402) 471 2394. Much of this information is also provided at our WPS web site at <http://www.agr.ne.gov/division/bpi/pes/wps.htm>.

Zebra Mussel Battle

The invasive zebra mussel was first found inside Nebraska borders in a lake at Offutt Air Force Base near Bellevue in 2006. The discovery was met with serious concern, because it was the first time the species was found fully established in or near Nebraska waters, and it was immediately upstream of two major power production facilities (one each operated by NPPD and OPPD).

A multi-faceted work group was assembled in early 2007 to address the issue. The group decided eradication was possible because the lake outflow could be closed off from the Missouri River and recreational use, the likely source of the infestation, could be prohibited. In September 2008, copper sulfate was applied to attain a concentration of 1 part per million elemental copper for at least 48 hours. This required 27,000 pounds of product to be applied over a two-day period. As of this writing, the effort appears to be successful, but further monitoring and a second treatment may be needed next spring.

More information on zebra mussels can be found at the following web links:

- USDA National Agriculture Library - <http://www.invasivespeciesinfo.gov/aquatics/zebramussel.shtml> - includes images, natural history info, many links to more info, and an interactive map that is updated daily.
- 100th Meridian Initiative - <http://www.100thmeridian.org/> - a cooperative effort between state, provincial, and federal agencies to prevent the westward spread of zebra mussels and other aquatic nuisance species in North America.

2009 Initial Certification Meetings Commercial and Non-Commercial (UNL or Association Training plus NDA Exams)

(Training entities may charge fees for training. NDA will bill applicators separately for commercial licenses.)

<u>Date</u>	<u>Meeting</u>	<u>Category(ies)</u>	<u>City, Location</u>
Jan. 27	<u>Ag Expo</u>	1	Omaha, Hilton Hotel
Feb. 03	UNL Initial Certification	1 4 6 7	Fremont, Dodge County Extension
Feb. 03	UNL Initial Certification	1 4 5 8 8W 10	Grand Island, College Park
Feb. 03	UNL Initial Certification	1 4 7 9 11 14	Lincoln, Lancaster County Extension
Feb. 03	UNL Initial Certification	1 3 5 9 14	North Platte, UNL WCREC
Feb. 03	UNL Initial Certification	1 4 8 8W 10 14	Omaha, Douglas County Extension
Feb. 10	UNL Initial Certification	1 4 9 11	Scottsbluff, Panhandle REC
Feb. 26	<u>Custom Applicator School</u>	1	Hastings, Central Community College
Feb. 26	UNL Initial Certification	4 7 9 11	Beatrice, Gage County Extension
Feb. 26	UNL Initial Certification	4 7 9 14	Columbus, Platte County Extension
Feb. 26	UNL Initial Certification	4 6 7 9 11 14	Grand Island, College Park
Feb. 26	UNL Initial Certification	1 4 7 8 8W 10	Lincoln, Lancaster County Extension
Feb. 26	UNL Initial Certification	1 4 5 10 14	Norfolk, Lifelong Learning Center
Feb. 26	UNL Initial Certification	4 7 8 8W	North Platte, UNL WCREC
Feb. 26	UNL Initial Certification	3 4 7 9	Omaha, Douglas County Extension
Feb. 26	UNL Initial Certification	4 5 7 8 8W	Scottsbluff, Panhandle REC
Mar. 17	UNL Initial Certification	1 4 6 14	Beatrice, Gage County Extension
Mar. 17	UNL Initial Certification	1 4 8 8W	Columbus, Platte County Extension
Mar. 17	UNL Initial Certification	1 4 5 7 8 8W 9 10 14	Norfolk, Lifelong Learning Center
Mar. 17	UNL Initial Certification	1 4 7 9	Ogallala, Keith County Fairgrounds
Mar. 17	UNL Initial Certification	1 4 7 14	Scottsbluff, Panhandle REC
Mar. 17	UNL Initial Certification	1 7 14	Valentine, Cherry County Extension
Apr. 16	UNL Initial Certification	4	Lincoln, Lancaster County Extension
Apr. 16	UNL Initial Certification	1 4	North Platte, UNWCREC
Apr. 16	UNL Initial Certification	4 7 8 8W	Omaha, Douglas County Extension
Apr. 16	UNL Initial Certification	4	Scottsbluff, Panhandle REC

Underlined meetings are not hosted by UNL and registration must be made through the Nebraska Agri-Business Association at (402) 476-1528. For UNL sessions, see pested.unl.edu call 800-627-7216.

Applicator Categories

1	Ag Plant	8	Structural Health
1a	Soil Fumigation	8W	Wood Destroying Organism
2	Ag Animal	9	Public Health
3	Forest	10	Wood Preservation
4	Ornamental and Turf	11	Fumigation (grain)
5	Aquatic	12	Aerial
5S	Sewer Root (<i>metam sodium</i>)	14	Wildlife Damage Control
6	Seed Treatment	REG	Regulatory Subcategory
7	Right-of-Way	D/R	Demonstration/Research Subcategory

Please Post for Future Reference

2009 Recertification/Renewal Meetings Commercial and Non-Commercial (No NDA Exams Offered)

Training entities may charge fees for training. NDA will bill applicators separately for commercial licenses.

<u>Date</u>	<u>Meeting</u>	<u>Category(ies)</u>	<u>City, Location</u>
Jan. 07	Crop Production Clinic	1 D/R	Hastings, Adams County Fairgrounds
Jan. 08	Crop Production Clinic	1 D/R	North Platte, Sandhills Convention Center
Jan. 09	Crop Production Clinic	1 D/R	Gering, Gering Civic Center
Jan. 12	Green Expo	4	Council Bluffs, Mid-America Center
Jan. 13	Crop Production Clinic	1 D/R	Beatrice, Eagles Club
Jan. 14	Crop Production Clinic	1 D/R	York, City Auditorium
Jan. 15	Crop Production Clinic	1 D/R	Kearney, Holiday Inn Center
Jan. 21	Crop Production Clinic	1 D/R	Norfolk, Lifelong Learning Center
Jan. 22	Crop Production Clinic	1 D/R	Fremont, Midland Lutheran College
Feb. 05	UNL Recertification	4 7 8 8W	Ainsworth, Courthouse Meeting Room
Feb. 05	UNL Recertification	4 7 11 14	Beatrice, Gage County Extension
Feb. 05	UNL Recertification	4 5 7 9	Columbus, Platte County Extension
Feb. 05	UNL Recertification	4 7 8 8W	Fremont, Dodge County Extension
Feb. 05	UNL Recertification	4 7 8 8W 10 14	Grand Island, College Park
Feb. 05	UNL Recertification	4 5 7 8 8W 11	Lincoln, Lancaster County Extension
Feb. 05	UNL Recertification	4 7 8 8W 10 11	Norfolk, Lifelong Learning Ctr.
Feb. 05	UNL Recertification	4 5 7 11 14	North Platte, UNL WCREC
Feb. 05	UNL Recertification	4 7 8 8W 9 11	Omaha, Douglas County Extension
Feb. 05	UNL Recertification	4 7 8 8W 9 11	Scottsbluff, Panhandle REC
Feb. 16-18	NATA (pilots) Conv.	1 7 12	Grand Island, Midtown Holiday Inn
Feb. 17-18	Urban PMC	8 8W 9 11 14	Lincoln, Cornhusker Hotel
Feb. 24	UNL Recertification	4 5 7	Ainsworth, Courthouse Meeting room
Feb. 24	UNL Recertification	4 7 9 11	Beatrice, Gage County Extension
Feb. 24	UNL Recertification	4 5 7 14	Columbus, Platte County Courthouse
Feb. 24	UNL Recertification	4 5 7 8 8W 11	Grand Island, College Park
Feb. 24	UNL Recertification	4 7 9	Holdrege, Phelps County Extension
Feb. 24	UNL Recertification	4 5 7 8 8W 14	Norfolk, Lifelong Learning Center
Feb. 24	UNL Recertification	4 7 9 10 14	North Platte, UNL WCREC
Feb. 24	UNL Recertification	4 5 7 9 10 14	Omaha, Douglas County Extension
Feb. 24	UNL Recertification	4 5 7 11 14	Scottsbluff, Panhandle REC
Mar. 05	UNL Recertification	4 7 8 8W 9 14	Norfolk, Lifelong Learning Center
Mar. 19	UNL Recertification	4 7 9	Beatrice, Gage County Extension
Mar. 19	UNL Recertification	4 5 7	Holdrege, Phelps County Extension
Mar. 19	UNL Recertification	4 7 8 8W 11 14	Lincoln, Lancaster County Extension
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Mar. 19	UNL Recertification	4 5 7 14	Valentine, Cherry County Extension

Underlined meetings are not hosted by UNL and registration must be made through the meeting sponsor. For UNL sessions, see pested.unl.edu or call 800-627-7216.

Recertification in the following categories will not be offered via training. Exams **must** be taken to recertify in: 01a (Soil Fumigation), 02 (Ag Animal), 03 (Forest), 5S (Sewer Root).

Please Post for Future Reference

Proper Well-Abandonment Funds Available

Have you come upon unused, abandoned wells during your spray operations? An abandoned, improperly closed well can serve as a direct route to ground water for numerous pollutants. This is the same water that 90% of Nebraskans drink on a daily basis. These wells can also serve as hazards for you and your equipment, especially if they are large, or the old, hand-dug type. In addition, having an abandoned, improperly closed well is illegal. And you, as an applicator, are in violation of the law if pesticides are applied within a labeled setback distance (see the Water Quality

Restrictions Pesticide Label Query at <http://www.agr.ne.gov/division/bpi/pes/labels.htm>). Take the time to let the landowner know if you find something like this – they may have forgotten about it or they may not even be aware of it. Remind them there are funds available from most NRDs – usually for at least 60% but often, up to 100% of the cost of the work! A map of the NRDs and their contact information can be found at http://www.nrdnet.org/nrd_guide/find_nrd.html Contact them to see what funding is available, and encourage your clients to take advantage of these programs and protect our groundwater resources.

Be Aware of Wellhead Protection Areas

Do you make pesticide applications within the “capture zone” of your community’s wellhead? Do you store, mix, or load pesticide products in these areas? If you answered “yes” to either of these questions, do you take special precautions to ensure that drinking water in these areas does not become contaminated? Many pesticide products already have mandatory mixing, loading, and use restrictions on the label to reduce the chances of ground water pollution. Many more

also have label precautions about the potential for off-site movement of the product. But contamination can still occur from accidental spills, or even from legal applications allowed by the label.

The Wellhead Protection Area (WHPA) Program is a voluntary program coordinated by the NDEQ, with assistance from groups such as local NRDs, the Groundwater Foundation, the Nebraska Rural Water Association, Nebraska Department of Health and Human Services, and others. Communities, or other drinking water providers, can go through a process to delineate the WHPA, inventory potential sources of contamination, manage potential contaminant sources, develop emergency and contingency plans, and educate and involve the public. As of October

1, 2004, all community public water supplies in Nebraska have a WHPA map which shows the “capture zone,” or the area that contributes recharge to their water supply. Approximately 81 community water supplies have now gone through the full process and have a State-approved Wellhead Protection Plan.

Contact your city or village board to determine where their WHPA is located. There are additional measures that you, as a pesticide dealer or applicator, can take to reduce the chances of contaminating our water supply. Extra precaution should be taken in a WHPA. But all ground water is valuable, so these steps should be considered throughout the state:

- Are you required to have containment for pesticide containers and/or a load-out facility for your operation? Is it in need of maintenance or an update to keep up with current conditions at your facility? See the Secondary Containment Program summary at http://www.agr.ne.gov/division/bpi/pes/ndeq_title198.pdf and the Title 198 regulations at <http://www.deq.state.ne.us/>.
- Have your employees who mix or load pesticides taken appropriate training as required by the Nebraska Pesticide Act? See the mixer/

loader training verification form at <http://www.agr.ne.gov/division/bpi/pes/mixload.pdf>.

- Do you comply with all label directions regarding mixing, loading, and use setbacks around wellheads? See the label query for water quality restrictions found at <http://www.agr.ne.gov/division/bpi/pes/pest1.htm> for examples.
- Do you consider alternative pesticides if you are using products prone to leach or if you have site conditions that increase the likelihood of leaching? See the county Groundwater and Pesticide Guides at <http://snr.unl.edu/PestGuides/PestGuides.asp> to determine if you are in a susceptible area. Then refer to the leaching rating found there to determine if there are alternatives that are less likely to leach. UNL Extension’s Guide for Weed Management (<http://www.ianpubs.unl.edu/epublic/pages/index.jsp>) has a leaching rating for herbicides, and USDA’s Pesticide Screening Tool software (<http://www.wsi.nrcs.usda.gov/products/W2Q/pest/winpst.html>) has ratings for most all active ingredients.

Much of the above information can be requested by contacting the appropriate agency:

- Nebraska Department of Agriculture: (402) 471-2394; www.agr.ne.gov
- Nebraska Department of Environmental Quality: (402) 471-2186 or toll free at 1-877-253-2603; <http://www.deq.state.ne.us/>

Additional information on the Wellhead Protection Area Program can be found at:

- Nebraska Department of Environmental Quality: <http://www.deq.state.ne.us/>
- The Groundwater Foundation: <http://www.groundwater.org/>

As the ground water awareness program from one local Natural Resources District advises, we should “Look Out Below!” It’s our responsibility to protect our natural resources for future generations.



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Website: www.agr.ne.gov/division/bpi/pstnx/news.htm

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TDD users can contact the Department by first calling the Nebraska Relay System. Telephone (800) 833-7352 and asking the operator to call (402) 471-2394.

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