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Drones and the Nebraska Pesticide Act

Tim Creger, Manager, Pesticide and Fertilizer Programs

When using drone technology to apply pesticides, applicators should know these key points:

- The Nebraska Department of Agriculture (NDA) classifies the use of an unmanned aerial vehicle to apply any pesticide as an aerial application. The Nebraska Pesticide Act (Act) requires all aerial pesticide applicators of any Restricted Use Pesticide (RUP) to possess the Aerial Pest Control category on their applicator license.
- If the property being treated does not belong to or under the direct control of the applicator, the operator of the drone may also need to possess an Aerial Pesticide Business License to conduct aerial applications of any pesticide, not just RUPs. The Aerial Pesticide Business License requires the licensee to possess a Federal Aviation Administration (FAA) Part 137 certificate before the license can be issued, and drone operators also must possess the FAA Part 107 certification and register the drone with the FAA.
- Private applicator licenses are restricted to persons engaged in the production of agricultural commodities and private landowners.
- Private applicators making drone applications of RUPs to their personal property or property they rent need to add the aerial category to their private applicator license. However, if a private applicator makes a drone application of any pesticide to property other than their own or that they personally farm, they must obtain a commercial pesticide applicator license with the aerial category.

More information on NDA’s pesticide program, including applicator certification and licensing, and the Aerial Business License, [can be found here](#). More information on FAA certification [can be found here](#).

Is It Legal to Apply Any Dicamba or 2,4-D Product on Dicamba or 2,4-D Tolerant Crops?

In a word, **no**.

Dicamba and 2,4-D tolerant soybeans were developed in tandem with specially formulated dicamba and 2,4-D products that were designed to reduce potential drift and volatility.

continued next page

Private Applicator License Categories

Because of changes to the federal standards for applicator certification, private applicators will now be required to obtain soil fumigation (category 01A), structural/non-soil fumigation (category 11), or aerial (category 12) categories on their private license to perform these three uses with RUPs. Those who have licenses that expire in 2023 or 2024 should add those categories that year to perform these three uses.

Private applicator categories are added by passing the category exam at any NDA *commercial/noncommercial applicator testing session*. Exams will not be offered during private applicator training sessions.

If your license expires in 2023 and you need to add one or more of these categories (or if you need to add one of these categories to a license that was renewed in 2022), see the links for testing and study material on page 3.

Continued from previous page

The following Restricted Use Pesticide (RUP) dicamba label language shows they are only allowed to be used on dicamba tolerant soybeans and cotton:

XtendiMax with VaporGrip Technology: For weed control in cotton with XtendFlex® Technology (dicamba tolerant cotton) and soybean with Roundup Ready 2 Xtend® Technology or XtendFlex® Technology (dicamba-tolerant soybean).

Engenia: For weed control in Dicamba-tolerant (DT) cotton†; Dicamba tolerant (DT) soybean†
† Only for use in states listed as US EPA approved in the Dicamba-tolerant (DT) Crops.

Tavium Plus VaporGrip Technology: Tavium Plus VaporGrip® Technology must only be used for the uses specified on this label and only in the following states, subject to county restriction as noted. Foliar systemic broadleaf herbicide with residual grass and certain broadleaf weed control for dicamba-tolerant cotton and dicamba-tolerant soybeans.

NO OTHER DICAMBA HERBICIDE LABEL ALLOWS FOR USE IN-SEASON OVER THE TOP ONCE SOYBEAN PLANTS HAVE EMERGED, UP TO PRE-HARVEST DESSICATION.

Likewise, there are only two 2,4-D herbicides registered for use on 2,4-D tolerant soybeans, and they have the following language:

Enlist One: Enlist herbicides with Colex-D® technology are the ONLY 2,4-D containing products authorized and specifically labeled for use with Enlist crops.

Enlist Duo: Enlist herbicides with Colex-D® technology are the ONLY 2,4-D containing products authorized and specifically labeled for use with Enlist crops.

NO OTHER 2,4-D HERBICIDE LABEL ALLOWS FOR USE OF THE PRODUCT ONCE SOYBEAN PLANTS HAVE EMERGED, UP TO PRE-HARVEST DESSICATION.

It is a violation of state and federal law to use a pesticide in a manner not listed on the label and using any dicamba or 2,4-D product other than those listed above for use on dicamba or 2,4-D tolerant soybeans is illegal. Violations of the Nebraska Pesticide Act could result in a fine of up to \$5,000 per violation, while the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) allows for fines exceeding \$7,500 per violation.



Commercial and Non-Commercial
2023 Recertification/Renewal Meetings
(No NDA Exams Offered)

Commercial and Non-Commercial
2023 Initial Certification Meetings
(UNL or Association Training plus NDA Exam)

Applicator Categories

To register for all UNL Initial meetings, go to the [UNL Pesticide Safety Education Program site](#). Registration will begin by Jan. 1, 2022.

To register for all other testing opportunities, click the corresponding link in the table above.

In addition to the General Standards exam, categories with * at right are available through [Pearson VUE testing sites](#).

Information for "[NDA testing only](#)" will be posted soon.

At "testing only" sites, only testing is conducted for initial certification, adding categories or recertifying by exam.

Study material for all exams can be purchased from [UNL Pesticide Safety Education Program](#).

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	Structural & Non-soil Fumig.*
5	Aquatic	12	Aerial*
5S	Sewer Root (<i>metam sodium</i>)	14	Wildlife Damage Control
6	Seed Treatment	15	Regulatory
7	Right-of-Way*	16	Demonstration/Research

NDA Certification Testing Policies

- The use of study materials is not allowed while taking the exam.
- Calculators may be used. However, all iPads, cell phones or similar electronic devices that can store, send, or receive data or images must be turned off, kept in pockets or holsters, and will not be allowed on the tabletop.
- The exams are the property of the State of Nebraska. Removal of exams from examination rooms is prohibited. Copying or reproducing the contents of exams (in whole or in part) is unlawful.
- Persons with special needs or disabilities should notify NDA of accommodations they may require at least 10 days prior to date of the exam.

These policies and more certification information can be found on NDA's [certification page](#).

2023 Private Applicator Recertification Options

Information for both online or in-person training options are available at

pested.unl.edu

Advantages of [Pearson VUE Testing Service](#)

- Multiple locations in Nebraska
- Testing available nationwide. Worldwide, even.
- Most testing sites in Nebraska are available 2-6 days a week but do require preregistration 24 hours in advance.
- Scores are received prior to leaving the testing session.
- Failing scores generate a report that provides percentage scores in different subject areas for each exam.

Pledge to Prevent the Spread of Invasives

Todd Boller, Fillmore County Weed Superintendent

Invasive species can cause damage to the economy, the environment, and to human health. But each person can make a difference in preventing new invasions and stopping the spread of existing ones! People across North America are joining together to protect the places we love by taking the [PlayCleanGo Pledge](#). You can too! When you take the Pledge to stop invasive species, you agree to:

- Remove plants, animals, and mud from your boots, gear, boat, and trailer;
- Clean your gear before entering and leaving a recreation site;
- Drain bilge, ballast, wells, and buckets before leaving the area;
- Dry equipment before launching into another body of water;
- Dispose of unwanted bait in a sealed container; and
- Use certified or local firewood and hay



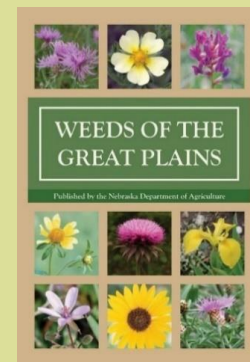
(reprinted from the Fall 2019 Weed Watch newsletter)

Links of Interest

- [Understanding a Pesticide Label \(Spanish\)](#) (Nebraska Extension)
- [Understanding a Pesticide Label \(English\)](#) (Nebraska Extension)
- [Nebraska Buffer Strip Program](#) – Funding available!
- [Spring 2022 Weed Watch Newsletter](#) (PRIDE Weed Management Area)
- [Retailers and Homeowners: Safe Winter Pesticide Storage](#) (Nebraska Extension)
- [Emerging Viral Pathogen Guidance and Status for Antimicrobial Pesticides](#) (EPA)
- [Pollinator-focused Pesticide Applicator Training Videos](#) –Several universities worked together to produce videos covering pesticide topics such as pollinator appreciation, pesticide toxicity and risk to bees, pesticide labels and pollinators, and supporting pollinator health.
- [Nebraska Chemigation Program](#) - Information on certification and permits including 2023 training & testing dates.

Weeds of the Great Plains

Purchase the book in person at the NDA office in Lincoln (now at 245 Fallbrook Blvd.) for a cost of \$32.50 or a mailed copy for a cost of \$35 per copy. To order the book or learn more about noxious weeds, go to [NDA's Noxious Weed Program](#) page or call 402-471-2351.



[NDA's Pesticide Record Keeping brochure](#) was revised to keep it consistent with EPA certification standards. Please become familiar with these requirements.

NDA's [Plant Health Protection Update](#), a periodic e-letter, provides information related to NDA's Plant Health Protection programs, including Entomology, Export Certification, Nursery Certification, Pesticide, Fertilizer, Seed and Noxious Weed.

Ag Chemical Containment and Load-out Regulations

When is pesticide containment required? Secondary containment and a load-out facility are required when bulk pesticide storage capacity exceeds 500 gallons. Even if secondary containment is not required, a custom applicator must have a load-out facility when using pesticides from original containers larger than 3 gallons or when using pesticide or fertilizer mixtures of more than 100 gallons.

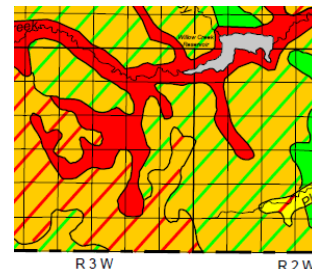
Commercial and private applicators should be aware of the requirements of Title 198, Agricultural Chemical Containment regulations. These apply to both private and commercial agricultural storage, as well as to commercial applicators of fertilizers and pesticides. The secondary containment and load-out facility requirements for pesticide storage and use have been in effect for everyone since Jan. 1, 1995. The secondary containment and load-out facility requirements for fertilizer storage and use have been in effect for everyone since Jan. 1, 1999.

Please [review this brochure](#) from the Nebraska Department of Environment and Energy to determine if you are required to comply with these regulations.

Pesticide Leaching & Runoff Prevention

A key to preventing pesticides from leaving the application site through leaching or runoff is knowing how likely that might occur and changing that likelihood by altering the timing and/or the rate of application, selecting a different product, or changing the management of the field itself. Knowing the susceptibility of leaching or runoff of the soils found in each field is a great start.

The [Applicator's Map and Guide to Prevent Groundwater Contamination](#) are county maps that show relative risk of leaching agricultural contaminants in your area. Soil properties and depth to groundwater are combined to yield map categories of risk from slight to high and are available for each county in the state.

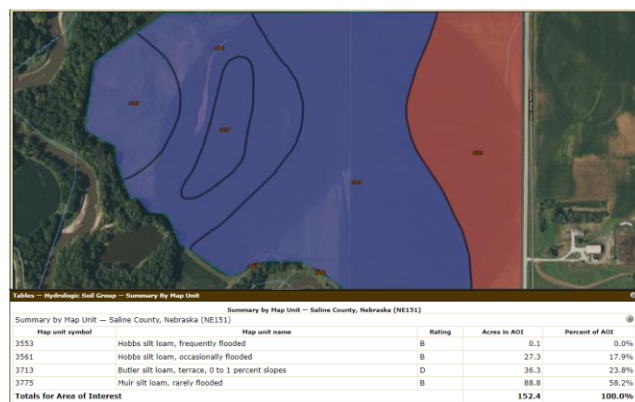


If you'd like more detailed soil information for your site, consult [USDA's Web Soil Survey](#). Leaching and runoff risk ratings can be found by selecting an Area of Interest (AOI) on the map. Then go to the Soil Data Explorer, Soil Reports tab, and look under the AOI Inventory and Selected Soil Interpretations dropdowns, where you can select "Pesticide Loss Potential – Runoff (NE)" and "Pesticide Loss Potential – Leaching (NE)" to generate a report. This can be printed or saved as a PDF file.

The [Windows Pesticide Screening Tool \(Win-PST\)](#) combines soil type, site condition and pesticide property information to generate specific application-area interaction ratings. This software is free and available from USDA.

The University of Nebraska Extension publication, [Guide for Weed, Disease, and Insect Management](#) (the "weed guide"), also has a runoff and leaching risk potential table for many herbicide products used in Nebraska. These ratings could be used subjectively to come up with a soil-pesticide interaction rating for a specific site.

Pesticide labels may contain specific directions for preventing leaching or runoff. Recent examples are Enlist One and Enlist Duo herbicides which direct the applicator to determine soil groups at the application site which then dictate how many mitigation measures must be in place before the application. A step-by-step guide on how to use the Web Soil Survey to create a soil table and site map [can be found at NDA's website here](#).

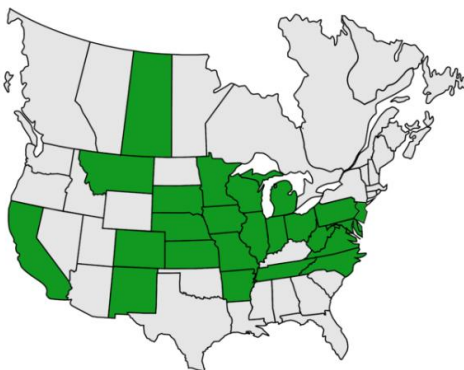


It is likely more products will contain specific label language for protecting our water resources.

Stay Current with FieldCheck for Applicators (by FieldWatch)

For the 2023 growing season, **corn and soybean fields** can be added to DriftWatch to allow applicators to see these crops. This should be a valuable service to row crop growers and area pesticide applicators (including farmers and commercial applicators) as more pesticide product labels include restrictions when applied adjacent to non-tolerant, susceptible crops. To register these crops or commercial specialty crops, create an account using the [DriftWatch](#) registry.

Applicators are encouraged to take advantage of the FREE [FieldCheck](#) registry, which provides notices when new info is added in your area, a free app for having specialty crop locations at your fingertips, and seed corn field worker (detasseler) locations (which are added by seed corn companies). In 2022, there were approximately 830 fields and 85,000 acres of seed corn having detassellers registered for display on the DriftWatch map. More information on SeedFieldCheck, including a link to a video demonstration, can be found at: [SeedFieldCheck: A Seed Field Worker Notification System](#)



FieldWatch includes 24 states, the District of Columbia, and Saskatchewan. People who farm or work near Nebraska's state line, as well as people who farm or work in any of these states, should benefit from a FieldCheck account. More information on DriftWatch, BeeCheck, FieldCheck, and SeedFieldCheck can be found on NDA's [FieldWatch Registries](#) webpage.



Is your email address current in FieldCheck? Have you received messages from FieldWatch this year concerning new specialty crop sites in your area? Chemical company and Coop mergers, company name changes and reorganizations, and changes in internet providers have created many bad email addresses in the FieldCheck registry for applicators. If any of these fit your situation, please create a new FieldCheck applicator account, or, if you're unsure, contact Craig Romary at 402-471-6883 to check your status!

Accidental Pesticide Poisonings

Tragic pesticide poisonings resulting in death are few and far between. However, it is good to remember they can happen if we aren't vigilant about all aspects of pesticide use. Here are a few select stories from the not-so-distant past:

- [Deadly Poisoning 80 Years Ago Still Teaches Lessons](#) (1942, OR)
- [Family Loses 2nd Child in Suspected Pesticide poisoning](#) (2010, UT)
- [Delaware Family Sickened at Resort After Fumigation](#) (2015, U.S. VI)
- [Investigation into Accidental Poisoning that Killed 4 Kids](#) (2017, TX)
- [Work-related Pesticide Poisoning Rates by State](#) (2006-2013)

NDA Fertilizer Program Overview

The NDA Fertilizer Program is primarily a consumer protection program, designed to assure growers that the agricultural products they purchase are of the quality stated on packaging labels and shipping paperwork.

NDA staff participate in meetings and committees of the Association of American Plant Food Control Officials (AAPFCO). Efforts are made to align Nebraska's definitions and requirements to those of AAPFCO, although there are some requirements in Nebraska law which differ from those of the Association.

Soil conditioners, fertilizers, and ag lime products must be submitted to NDA for review prior to distribution/sale. Products not addressed by current Nebraska regulations include: inoculants applied to seed, nitrogen-stabilizing products applied directly to fertilizer, and some biostimulants which fall outside the definitions of fertilizer and soil conditioner.

Contact NDA or [visit the Fertilizer program page](#) for any licensing or product registration questions.

Exemptions to Registration of Pesticides in Nebraska

Registration is not required to transport a pesticide from one plant or warehouse to another plant or warehouse operated by the same person if the pesticide is used solely at the second plant or warehouse as a constituent of a pesticide already registered in the state. Registration is not required if the pesticide is distributed under the provisions of an experimental-use permit issued by the EPA (FIFRA Section 5).

Additionally, State registration is not required for products meeting the federal standards of Minimum Risk Pesticides exempted under FIFRA Section 25(b). According to PR Notice 2000-6, Section 25(b) exempt product labels must be submitted for review and approval by the NDA, but no registration fee is assessed. Standards for 25(b) minimum risk pesticides [can be found here](#).

More info on registering pesticide products in Nebraska [is found here](#).

Handling, Planting and Disposal of Treated Seed (for planters of treated seed) and Seed Treatment Application (for people who treat seeds)

The American Seed Trade Association (ASTA), with several partners, have developed a [Guide to Seed Treatment Stewardship](#) for farmers and applicators (treaters). Resources include the 10-page document, a condensed set of guidelines for both farmers and seed treaters, checklists, and helpful videos.

In addition, the Pesticide Stewardship Alliance, in partnership with state, university, and industry partners, has published the [Treated Seed Life-Cycle Management Guidance Map](#). This provides contact information for both the pesticide regulatory agency and the agency overseeing waste treated seed in each state.

Readers are free to reprint, in whole or in part, information in this newsletter. However, NDA respectfully requests the following citation be used:

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Articles from other sources are often used in this newsletter and should be cited accordingly.

This newsletter is available in other formats for persons with disabilities upon request. For an alternate format or for additional information on topics in this publication, please call the Nebraska Department of Agriculture at 402-471-2351.

TDD users can contact the Department by first calling the Nebraska Relay System. Telephone 800-833-7352 and asking the operator to call 402-471-2351.

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This newsletter is posted on NDA's website at
nda.nebraska.gov/plant/newsletter/

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