



# PESTICIDE REGULATORY COMPLIANCE GUIDE

*Agriculture Commissioner Doug Goehring*

*Disclaimer: This guide provides information only and is not intended as a complete listing of all pesticide regulatory requirements. Please visit the North Dakota Department of Agriculture homepage ([www.nd.gov/ndda](http://www.nd.gov/ndda)) for relevant laws (North Dakota Century Code 4-35, 4-35-1 and 19-18) and North Dakota Administrative Code Title 60).*

## What is a Pesticide?

State law defines a pesticide as "...any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant." Pesticides include insecticides, herbicides, fungicides, rodenticides, disinfectants and other products intended to kill, repel or mitigate pests.

## Pesticide Label Compliance

Pesticide labels include directions and restrictions to ensure that pesticide products are used in such a way to not pose a risk of unreasonable adverse effects to human health or the environment. It is illegal to use any pesticide in a manner inconsistent with the labeling. Enforceable restrictions are found in several sections of the label. Sections of special note include:

- **Precautionary Statements** include requirements for applicators and handlers, including such things as:
  - *Personal Protective Equipment (PPE)*: Includes information on required PPE and proper disposal of contaminated PPE
  - *Environmental Hazards*: Includes restrictions to protect groundwater, surface water, and pollinators. For most agricultural pesticides, the labeling will include prohibitions against applying the product directly to water or areas where surface water is present. Many insecticides will also include prohibitions against applications when bees are foraging in the treatment area.
- **Directions for Use** includes specifics on how to legally and safely use the pesticide, including labeled crops or sites; approved application methods, use rates and timings, pre-harvest intervals and other information. The Agricultural Use Requirements includes information on restricted-entry intervals (REIs) for workers entering into treated areas and other information related to the Worker Protection Standard (WPS).

## Pesticide Registration

It is illegal to distribute, sell, offer for sale or use any pesticide that is not registered with the North Dakota Department of Agriculture (NDDA). Please visit the department's searchable online pesticide registration database—[www.kellysolutions.com/nd](http://www.kellysolutions.com/nd)—to verify a product's registration status.

- **Storage and Disposal** includes product storage information and restrictions to prevent contamination of such things as food and feed. Some products may not be allowed to freeze. The section may contain directions on proper disposal of empty containers.

The labeling, a legible reproduction of the labeling or a specimen labeling of the pesticides being applied must be at the application site during the application. Aerial applicators must have the labeling available at the filling site.

## Pesticide applications to surface water

To protect drinking water and aquatic ecosystems, the application of many pesticides is prohibited or restricted on or near surface water (sometimes described as "aquatic areas" or "aquatic habitat").

Persons applying pesticides directly to water must comply with the National Pollution Discharge Elimination System (NPDES) permitting requirements from the North Dakota Department of Health (NDDoH). Applicators must submit a Notice for Pesticide Application to Waters of the State form (SFN 60061) to the NDDoH at least 20 days before applying a pesticide to surface water for control of aquatic pests. For more information on NDDoH requirements for aquatic pesticides, contact the NDDoH Environmental Health Section at [www.ndhealth.gov](http://www.ndhealth.gov) or 701-328-5150.

## Pesticide drift

Pesticide drift is illegal, regardless of whether it causes crop injury or other economic losses. State rules prohibit applications when atmospheric conditions favor drift. Many pesticide labels contain enforceable restrictions related to pesticide drift, including maximum wind speed limitations.

## Certification Requirements

Pesticides dealers and applicators must be certified and found competent to handle restricted use pesticides (RUPs) and to conduct certain application activities that pose a significant risk to human health or the environment.

North Dakota State University certifies pesticide applicators and dealers. For more information regarding certification or on how to become a certified applicator or dealer, please contact NDSU Extension Service Pesticide Program at 701-231-7180 or visit their website: [www.ag.ndsu.nodak.edu/aginfo/pesticid/pesticid.htm](http://www.ag.ndsu.nodak.edu/aginfo/pesticid/pesticid.htm).

### Private Applicator Certification:

Persons buying or applying RUPs for their own use must be privately certified or work under direct supervision of a certified applicator.

### Commercial Applicator Certification:

Persons who apply RUPs for monetary compensation must be commercially certified. Persons applying general use pesticides for monetary compensation must be either commercially certified or work under the direct supervision of a commercially-certified applicator.

To qualify for direct supervision, the uncertified applicator must be trained and deemed competent by the certified supervising applicator. The supervising applicator is responsible for the actions of the uncertified applicator, even though the certified applicator need not be physically present during application. The supervising applicator must be able to physically arrive at the location within 30 minutes and be in immediate contact by phone or radio.

To obtain a commercial applicator certification, a person must demonstrate and maintain financial responsibility of \$100,000. This can be demonstrated in the form of net assets, a performance bond or a general liability insurance policy of at least \$100,000. The following commercial applicators are exempt from the financial responsibility requirements:

- A rancher applying pesticides for controlling noxious weeds on leased federal acreage as a condition of a federal grasslands lease,
- A grazing association and its members for controlling noxious weeds on leased federal acreage as a condition of the federal grasslands lease,
- A person who must be certified in the Right-of-Way category,
- A commercial applicator controlling noxious weeds on grasslands, land producing tame hay or lands not used to produce an annual crop.

### Public Applicator Certification:

Persons who apply pesticides, other than ready-to-use pesticides, as employees of a government agency, municipal corporation, public utility, hospital, privately owned golf course, nursery, or greenhouse must hold a public applicator certification or work under the direct supervision of a publicly certified applicator. Similar to commercial applicator certification, the direct supervision provision only applies to persons applying general use pesticides. In addition, the person must be certified in the appropriate certification class (see next section on Categories of Commercial, Public or Dealer Certification). Public applicators do not need to demonstrate financial responsibility.

### Dealer Certification:

A pesticide dealer or commercial applicator certification is required to sell RUPs. Private, public, or commercial certification is required to purchase RUPs, although certified applicators can file an Authorization to Receive Restricted Use Pesticides (RUPs) form (SFN 17783) with the dealer to allow specified uncertified persons to accept RUPs on behalf of the certified applicator.

### Categories of Commercial, Public or Dealer Certification:

All commercial and public applicators must be certified in the certification class that applies to how they use pesticides. All dealers must be certified in the certification class that applies to the pesticides they distribute. Certification classes include:

- **Agricultural pest control (plant and animal):** authorizes use of pesticides for agricultural cropland, grasslands, animals, animal facilities and non-crop lands, including natural areas, fallow, non-producing agricultural lands and mines.
- **Seed treatment:** authorizes use of pesticides for agricultural crop seeds, other seeds and vegetative seed stocks.
- **Commodity and structural fumigation:** authorizes use of fumigant pesticides for raw agricultural commodities, processed foods, nonfood commodities, transport vessels, commodity processing facilities and commodity storage structures.
- **Ornamental and turf pest control:** authorizes use of pesticides for producing and maintaining ornamental trees, shrubs, flowers and turf.
- **Greenhouse:** authorizes use of pesticides for greenhouses.
- **Right of way:** authorizes use of pesticides in parking lots, rights of way for roads, powerlines, telecommunication lines, pipelines, and railways and in similar areas.
- **Public health pest control:** authorizes use of pesticides by government employees, applicators working under government contract or others for public health purposes.
- **Research and demonstration pest control:** authorizes use of pesticides by individuals for the purpose of education or research. These would include county extension agents, state, federal, and commercial employees, plus other persons conducting research or demonstrating the proper application of RUPs.
- **Home, industrial, and institutional pest control:** authorizes use of pesticides in or around food-handling establishments, human dwellings, public or private institutions, warehouses, grain elevators and any other structures.
- **Wood preservatives:** authorizes use of pesticides to preserve lumber products.
- **Vertebrate:** authorizes use of pesticides to control vertebrate pests, such as rodents, certain predators and bats not in or around structures.
- **Sewer root control:** authorizes use of pesticides to control tree or other plant roots infesting sewer systems.

## Pesticide Sales Records

Pesticide dealers must keep records of all of purchases and sales of RUPs and all pesticides used under Section 18 emergency exemptions and Section 24(c) Special Local Needs registrations. Dealers must also positively identify all purchasers of RUPs. Records must include the following information for each pesticide purchased or sold:

### Purchases

- Dealer's name and address
- Pesticide trade name and EPA registration number
- Quantity of pesticide
- Date pesticide was shipped or received
- Name of the person from whom the pesticide was received

## Commercial and Public Applicator Records

Commercial and public applicators must keep a record of all pesticide applications and of the use or disposal of all pesticide rinsate, whether the pesticide is an RUP or a general use pesticide. Records must be made within 24 hours of pesticide application or use or disposal of the pesticide rinsate. A copy of the record must be provided to the applicator's client as soon as possible, not to exceed 30 days, unless the applicator has on file a signed letter from the client waiving the right to receive a copy. The record must include the following information for each application:

- Name and address of the person for whom the pesticide was applied.
- Legal description of the land, grain bin identification, rail car number, or other description of where the pesticide was applied.
- Pest or pests controlled.
- Start and completion times of the pesticide application (month, day, year and hour).
- Person who supplied the pesticide used, if other than the person making the application or that person's employer.
- Pesticide trade name and EPA registration number of the pesticide that was applied.
- Direction and estimated velocity of the wind and the estimated temperature of the outdoor air at the time the pesticide was applied. This requirement shall not apply to seed treatment applications or if bait is used to attract the pest or pests or if the application is made indoors.
- Amount of pesticide used, including pounds (kilograms) or gallons (liters) per acre of formulated product, and pounds (kilograms) or gallons (liters) of tank mix applied per acre.
- Specific crops, commodities and total acreage (hectareage) or other common identifying unit of measure to which the pesticide was applied.
- Description of equipment used in application.
- Signature and number of applicator
- Right-of-way applicators must record weather conditions and geographic location in two-hour increments

### Sales

- Dealer's name and address, and identification of the person who made the sale
- Name, address, certification number and signature of the certified applicator who purchased the product
- Date of sale
- Pesticide trade name and EPA registration number
- Quantity of pesticide
- Accurate inventory by product
- Certification class and expiration date of the certification
- Intended application site or intended crop for all pesticides used under a Section 18 emergency exemption

## Private Applicator Records

Private applicators must keep records of all RUP applications. Records must be made within 24 hours of the pesticide application or the use or disposal of the pesticide rinsate. Records must include the following for each application:

- Legal description of the land, grain bin identification or other description where the pesticide was applied
- Start and completion times of pesticide application (month, day, year, and hour)
- Pesticide trade name and EPA registration number
- Amount of pesticide used, including the pounds (kilograms) or gallons (liters) per acre of the formulated product, and the pounds (kilograms) or gallons (liters) of tank mix applied per acre.
- Specific crops, commodities, and total acreage (hectareage) or other common identifying unit of measure to which the pesticide was applied
- Signature and certification number of the applicator



## Pesticide Storage

The following requirements must be followed for pesticide storage in addition to any requirements found on the pesticide labeling:

- Pesticides must not be stored next to food, feed, seed or fertilizer.
- All pesticides, except bulk pesticides, must be stored in their original containers and in accordance with labeling requirements. All pesticide containers must have a proper label affixed to them.
- Any floor drain in a storage area must be sealed or self-contained.
- Commercial storage must have pesticide storage signs at all entrances.
- Stored pesticides must be secured in a manner to prevent children, unauthorized persons or animals from gaining entry or access to them.
- Commercial bulk storage areas must comply with the bulk containment design requirements found in N.D.A.C. Chapter 60-03-01.
- Pesticide spills must be cleaned up immediately
- Commercial storage facilities must have a spill kit within 50 feet of the operational area where pesticides are transferred, mixed, loaded, unloaded, repackaged, refilled or rinsed from a container.
- Label-specific safety equipment for all stored pesticides must be available at the immediate storage site.

## Repackaging

Pesticides can only be repackaged by persons who have obtained a repackaging agreement from the pesticide registrant. Repackaging must occur only at facilities with an EPA establishment number and in a permanent containment area. Pesticides can only be repackaged into properly labeled containers that have been designated as refillable by the pesticide registrant and container manufacturer. Please refer to NDAC Article 60-03-01 for more specific information on pesticide repackaging.

**For More Information,  
Contact the NDDA Pesticide  
and Fertilizer Division at  
701-328-2231 or 1-800-242-7353**

**For information on pesticide regulation  
and requirements on tribal lands,  
please contact the following:**

### **Standing Rock Sioux Tribe**

701-854-3823

### **Spirit Lake Nation**

701-766-1292

### **Three Affiliated Tribes**

701-421-0665



ND Department of Agriculture  
600 East Boulevard Avenue, Dept. 602  
Bismarck, ND 58505-0020  
Phone: 701-328-2231  
Email: [ndda@nd.gov](mailto:ndda@nd.gov)

