



# Outstanding pesticide dealer, applicator repeat winners

The winners of the 2008 North Dakota Outstanding Pesticide Dealer of the Year and Outstanding Applicator of the Year awards have "been there, done that."

"I am pleased to announce that Mott Grain and Agronomy of Mott and Tory Haugland of Devils Lake, the 2007 winners of these awards, have again been chosen for these honors," said Agriculture Commissioner Roger Johnson. "The competition for both awards was strong, but

the judges felt that last year's winners deserved to win again."

Haugland and Todd Kautzman, owner-manager of Mott Grain and Agronomy, received the awards during the annual meeting of the North Dakota Agricultural Association on Tuesday during the Northern Ag Expo in Fargo.

"Todd and Tory are examples for the entire industry," said Jim Gray, pesticide, feed and fertilizer team leader in the North Dakota Department of Agriculture, who presented the awards on Johnson's behalf. "Their emphasis on customer service, safety and their concern for the environment demonstrate to all of us how we can protect human health and our land and water resources."

"Outstanding dealers and applicators promote good stewardship of soil, water and air through the safe and proper use of plant nutrient and crop protection products," said Gary Knutson, executive director of the North Dakota Agricultural Association. "We are proud to recognize these people and companies for excellence in customer service and environmental awareness."

A commercial applicator since 1993, Haugland has owned and operated his own spraying business for nine years. He specializes in ground applications using a 1264 RoGator.

He increased his treated acres by 15,000 acres in 2008.

Haugland said that his favorite part of his job is talking with growers and taking care of their pest management needs, and that consistency of service sets his business apart from others. He said his biggest challenge is "getting cooperation from Mother Nature."

Other nominees for applicator of the year included Glen Wharam of Valley Sprayers Inc., Park River; and Keith Chase of Aerial Crop Care Inc., Hebron.

Kautzman has owned and operated Mott Grain and Agronomy since 1996. With five employees, the company is a full-service fertilizer, seed and pesticide dealer, offering custom application, custom seed treatment and noxious weed control. It also sells application equipment and parts.

Kautzman said his favorite part of his job is being out with producers, helping them with their operations and watching crops grow. He said that while there is increased competition in the industry, the larger size of today's farms and lack of hired help puts a premium on businesses such as Mott Grain to provide high-quality service.

Earlier this year, Mott Grain and Agronomy was awarded the prestigious Environmental Respect Award, sponsored by Crop Life America and DuPont Crop Protection ([www.environmentalrespect.com](http://www.environmentalrespect.com)).

*continued on page 3*

## ***In this issue . . .***

Outstanding pesticide dealer, applicator repeat winners .....	1
Coordinator's Comments .....	2
Safe Send sets collection, participation records .....	2
Pesticide Application and Certification on Indian Reservations .....	3
North Dakota Attorney General Issues Opinion on Confidentiality of Pesticide Records .....	4
Certified Crop Adviser Continuing Education Units Available at Commercial Pesticide Applicator Trainings .....	5
Pesticide Regulatory Update .....	6
2008-09 Commercial Pesticide Certification Calendar .....	7
Officials investigate pesticide exposure .....	8
Training Opportunities for New Applicators/Dealers .....	8
Training Pre-registration form .....	10
Non-training Study Materials form .....	11
Private Applicator Fumigation Training Opportunities .....	12

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# COORDINATOR'S COMMENTS

We are up to our hips in trainings (and snow) this winter. When the training is over, about 6,000 private certificates will be issued and about 2,700 commercial/public/dealer certificates will be issued. This is a big task, which is made all the more difficult with the terrible winter weather. So far, we have not had to cancel any trainings. But we are concerned that we

may be forced to do so. On the positive side, think spring!

In the October issue of the *Pesticide Quarterly*, I noted that the Pesticide Control Board had met in September and that the North Dakota Department of Agriculture was urging changes be made to our basic pesticide use law (North Dakota Chapter Code 4.35). Well, the Pesticide Control Board met on Dec. 19

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## Safe Send sets collection, participation records

BISMARCK – A record amount of unusable pesticides was collected and shipped out of North Dakota in 2008, thanks to Project Safe Send.

“We also had a record number of participants – 535,” said Agriculture Commissioner Roger Johnson. “They brought in almost 100 tons – 195,410 pounds – of unusable pesticides.”

The previous participation record was 478 in 2007. The previous record collection total was 190,759 pounds in 2002.

Johnson said the numbers clearly show the ongoing need for this program.

“As more pesticides become obsolete every year and are no longer usable for current applications, Project Safe Send remains an easy and affordable means for farmers, dealers and homeowners to get rid of these dangerous chemicals,” he said.

Project Safe Send collections were conducted in July in Belfield, Bismarck, Bowman, Cando, Ellendale, Finley, Grafton, Grand Forks, Harvey, Jamestown, Kenmare,

Lisbon, Velva, Wahpeton, Watford City and West Fargo.

The Grafton collection was the largest in participation – 63 people, while Jamestown was first in the amount of chemicals collected – 40,364 pounds. Jamestown was second in participation with 53 people, and Grand Forks was second in amount of waste pesticides with 22,683 pounds.

Some of the chemicals brought in this year include long-banned products, such as DDT, arsenic, strychnine and mercury compounds.

Veolia Environmental Services, Blaine, Minn., collected, repackaged and transported the waste chemicals out of state for incineration.

“Nearly 6,500 people have used Project Safe Send since 1992 to safely get rid of their unusable pesticides,” Johnson said. “This level of public participation has helped maintain the program’s strong backing in the Legislature from both sides of the aisle.”

Project Safe Send is funded by the fees paid by pesticide manufacturers to register their products in North Dakota.

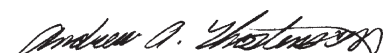
and decided to ask the Legislature to make a variety of technical or grammatical changes, as well as substantively change the law with respect to:

- Allowing sales of restricted-use pesticides (RUP) to people certified in other states
- Allowing people to obtain private certifications outside their county of residence
- Removing the ability of private applicators to directly supervise the application of RUP by noncertified applicators
- Clarify the record confidentiality provisions, which would allow their release to medical professionals in the event of a medical emergency. (See the recent news release on this matter from the attorney general of North Dakota in this issue of *Pesticide Quarterly*.)
- Provide access to pesticide repackaging records by the commissioner of agriculture to bring North Dakota law into conformity with the U.S. Environmental Protection Agency’s recently enacted Container and Containment Rule.

At the time of this writing, legislative sponsors for these proposals are Sens. Klein, Miller and Taylor and Reps. Brandenburg, D. Johnson and Mueller. The bill number is SB-2248. Hearings will begin in the Senate Agriculture Committee in the first half of February. In the House, the Agriculture Committee should take it up in March. The Legislature and the governor will consider it in very early April.

These are consequential changes and I urge you all to keep your eyes and ears open and contact your legislator if you have concerns or suggestions.

Have a safe winter season,



Andrew A. Thostenson,  
Pesticide Program Specialist

# Pesticide Application and Certification on Indian Reservations

As the title implies, North Dakota has a number of tribes and all basically act as independent nations or countries. In the pesticide area, they have considerable autonomy. But basically, at a minimum, pesticide use still is governed by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The state, whether through the North Dakota Department of Agriculture or the North Dakota State University Extension Service, does not have any jurisdiction on Indian reservations.

Under FIFRA, the U.S. Environmental Protection Agency (EPA) ultimately is responsible for overseeing pesticide use on Indian reservations. Wherever possible, the EPA delegates authority formally or informally to local tribal governments to execute FIFRA.

## Three Affiliate Tribes

In North Dakota, the EPA formally has delegated authority to the Three Affiliate Tribes (TAT) of Fort Berthold, which is based in New Town. Thus, pesticide use must conform to FIFRA and any other rules or policies the tribal authority deems necessary. So, if you buy, sell, or apply pesticides within the jurisdiction of the TAT, you will need to:

- Follow FIFRA
- Follow any tribal requirements
- Obtain a tribal pesticide certificate

**Need help with  
pesticide certification or  
general pesticide use issues?**

### Contact:

NDSU Pesticide Training and  
Certification Program  
NDSU Dept. 7060  
205 Walster Hall, P.O. Box 6050  
Fargo, ND 58108-6050 USA  
Phone: (701) 231-7180  
Fax: (701) 231-5907  
E-mail: [pesticid@ndsuxent.nodak.edu](mailto:pesticid@ndsuxent.nodak.edu)  
Web: [www.ndsupesticide.org](http://www.ndsupesticide.org)

The good news is that they will grant a certificate to you if you present a valid North Dakota State University Extension Service-issued certificate. There is no charge for the tribal certificate. The contact person for the TAT is:

Jim Mossett  
Tribal Pesticide Program Manager  
Environmental Division  
Three Affiliated Tribes of Fort Berthold  
404 Frontage Road  
New Town, ND 58763  
Newtown Headquarters phone:  
(701) 627-4569  
Twin Buttes Field Office phone:  
(701) 938-4403  
Fax: (701) 938-4340  
Cell: (701) 421-0665  
E-mail: [jmossett@mhanation.com](mailto:jmossett@mhanation.com)

## Standing Rock Sioux Tribe

The Standing Rock Sioux Tribe (SRST) based at Fort Yates also has formal authority from the EPA to enforce pesticide uses under FIFRA and the tribal authority. However, the tribe does not issue certifications. (North Dakota State University Extension Service-issued certificates are valid.) Thus, pesticide use must conform to FIFRA and any other rules or policies the tribal authority deems necessary. The contact person for the SRST is:

Jake Luger, Pesticide Coordinator  
Department of Environmental  
Regulation - Pesticide Program  
Standing Rock Sioux Tribe of Fort Yates  
P.O. Box 516  
Fort Yates, ND 58538  
Phone: (701) 854-3823  
Fax: (701) 854-3841  
Cell: (701) 426-7455  
E-mail: [jluger@standingrock.org](mailto:jluger@standingrock.org)

## Other Tribes

Other tribes in North Dakota do not have formal authority from the EPA to manage pesticide use independently. In these situations, the EPA employs "circuit rider"

pesticide inspectors under memorandums of agreement with local tribal governments to ensure that pesticide use, at a minimum, conforms to FIFRA. As for certifications, the EPA is responsible for issuing certifications on tribal lands but to date has not done so. (The EPA is working on a system for issuing certificates based on credentials issued from surrounding states.)

Therefore, if you plan to use pesticides on tribal areas other than the TAT or SRST, you should check directly with the tribal authority regarding any use restrictions it might have and, of course, follow label instructions.

## Outstanding pesticide dealer

*continued from page 1*

Other nominees for the dealer award were Wholesale Ag Products, Carrington; Farmers Union Oil of Southern Valley, Fairmount; and Halstad Elevator, Hillsboro.

Gray said the awards are based on a number of criteria, including recordkeeping, knowledge of the law and regulations, pesticide storage, bulk pesticide repackaging, proper handling and storage of fumigants, personal protective equipment and overall appearance, cleanliness and professionalism.

North Dakota Department of Agriculture pesticide inspectors nominate businesses for the applicator and dealer awards. There are nearly 5,000 certified commercial applicators and more than 1,000 agricultural pesticide dealers in North Dakota.

# North Dakota Attorney General Issues Opinion on Confidentiality of Pesticide Records

LETTER OPINION: 2008-L-20

December 22, 2008

The Honorable Roger Johnson  
Agriculture Commissioner  
600 East Boulevard Avenue  
Bismarck, ND 58505

Dear Commissioner Johnson:

Thank you for your letter asking me to interpret a section of the Pesticide Act (Act). You ask whether a private individual may access pesticide application and sales records by claiming to “enforce” the Act. It is my opinion that only the Commissioner has the authority to enforce the Act and records pertaining to pesticide application and sales are confidential in the hands of the Commissioner. However, if the Commissioner requires a confidential record for the enforcement of N.D.C.C. ch. 4-35, the record loses its confidential status. Further, there is no medical necessity exception that lifts a record’s confidentiality status.

## ANALYSIS

The statute at issue within the Act is N.D.C.C. § 4-35-24(5), which provides:

*The commissioner shall, at any reasonable time, have access to the records pertaining to pesticide application and sales of any person. The commissioner may copy or make copies of such records for the purpose of carrying out the provisions of this chapter. Unless required for the enforcement of this chapter, such information is confidential.(1)*

The underlined sentence specifically refers to enforcement of N.D.C.C. ch. 4-35. Although the sentence does not expressly designate the Commissioner as the enforcer, when the subsection, statute, and chapter

are read together, it is clear that the Legislature designated the Commissioner, not private persons, to enforce the Act. Subsection five is one of seven subsections in N.D.C.C. § 4-35-24. That statute clearly states “[t]he commissioner is charged with the duty of enforcing the requirements of this chapter and any rules or regulation issued hereunder.”(2) Because N.D.C.C. § 4-35-24 and other statutes expressly vest the enforcement powers of the Act with the Commissioner, it is my opinion that only the Commissioner can enforce the chapter.

The confidentiality provision in N.D.C.C. § 4-35-24(5) is not absolute. The statute makes pesticide application and sales records confidential “[u]nless required for the enforcement of this chapter.” (3) Thus, at the point a record is required to enforce the chapter, the record becomes open.(4) Since the Commissioner is the only person with authority to enforce the chapter, the Commissioner is responsible for determining which records are required for enforcement and hence thereafter no longer confidential.

Further, although a record’s status can change from confidential to open, there is no

express declaration in N.D.C.C. § 4-35-24(5) that causes a record required for enforcing the chapter to revert back to confidential status. Because I cannot add words or phrases which the Legislature did not include, I must presume the Legislature said all that it intended to say.(5) The language is plain on its face and only provides confidential status until the point where a record is required to enforce the chapter.

Thus, it is my opinion that when a confidential record is required for the enforcement of the chapter, the record is thereafter in the public domain and is no longer confidential. You ask a second question. If private persons are not entitled to the “enforcement exception,” might they yet be able to obtain the records solely for personal health reasons. Pesticides can drift from the place of their application to unprotected persons on neighboring lands. Persons can also come into contact with pesticides in other ways. Exposure can cause sickness, and proper treatment could depend on knowing the name and chemical make-up of the pesticide.

While there are valid public policy arguments, there is no “medical necessity” exception in N.D.C.C. ch. 4-35, nor in statutes generally governing confidential records. Thus, even if a person has a medical reason for requesting records acquired by the Commissioner under N.D.C.C. § 4-35-24(5), that request must be denied for so long as the information remains confidential. Any potential for harsh results is a matter for the Legislature to consider.

Sincerely,  
Wayne Stenehjem, Attorney General

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.(6)

## Footnotes:

1. N.D.C.C. § 4-35-24(5) (emphasis added).
2. N.D.C.C. § 4-35-24(1) (emphasis added).
3. N.D.C.C. § 4-35-24(5).
4. This would generally mean that a record used as an attachment or exhibit to a complaint or brief, and as an exhibit in a deposition or hearing or trial would become an open record.
5. *Larsen v. North Dakota Dept. of Transp.*, 693 N.W.2d 39, 43 (N.D. 2005).
6. See *State ex rel. Johnson v. Baker*, 21 N.W.2d 355 (N.D. 1946).

# Certified Crop Adviser Continuing Education Units Available at Commercial Pesticide Applicator Trainings

The NDSU Extension Service Pesticide Program is offering certified crop advisers the opportunity to obtain their continuing education units (CEUs) at selected commercial agricultural pest recertification training sessions. (At the time of this writing, credits have been applied for with the North Dakota Certified Crop Advisors Board – actual categories are yet to be assigned.)

Please note that you must attend 100 percent of the training to receive CEU credits. No exceptions allowed!

Fees for attending a session are as follows:

- \$ 5 per credit for crop advisers who also are attending for commercial pesticide recertification
- \$10 per credit for crop advisers who are attending for CEUs only

Please preregister 10 days before a training to ensure adequate space at each location.

Call the NDSU Extension Pesticide Program with any questions at (701) 231-7180 or (701) 231-6388.



Date	Time and Location
Feb. 12, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. Mandan, Seven Seas Hotel, 2611 Old Red Trail
Feb. 18, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. Minot, Holiday Inn, 2200 Burdick Expressway E.
March 5, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. Devils Lake, Knights of Columbus, 522 4th St.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. Crosby, Divide County Extension, 300 2nd Ave. N.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. LaMoure, LaMoure County Courthouse, 202 4th Ave. N.E.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. Fessenden, Wells County Extension, 600 Railway St. N.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. Wahpeton, Richland County Courthouse, 418 2nd Ave. N.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. Watford City, McKenzie County Courthouse, 201 5th St. N.W.
March 26, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m. Fargo, Holiday Inn, 3803 13th Ave. S.

## Certified Crop Adviser – CEU Preregistration 2008-09

Include Fee

*(Please print)*

Name \_\_\_\_\_

Phone \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ ZIP \_\_\_\_\_

**I will attend the following workshop –**

Date \_\_\_/\_\_\_/\_\_\_ City \_\_\_\_\_

Fee

Attending for CEUs only?  
6 credits x 10 Total \$ \_\_\_\_\_

Attending for pesticide certification also?  
6 credits x 5 Total \$ \_\_\_\_\_

Make checks payable to:  
NDSU Extension Pesticide Program

*(If paying by personal check, the state of North Dakota requires your birth date on the check.)*

Return to:

NDSU Extension Pesticide Program  
NDSU Dept 7060, P.O. Box 6050  
Fargo, North Dakota 58108-6050 USA

# Pesticide Regulatory Update

The North Dakota Department of Agriculture (NDDA) is the lead pesticide regulatory agency in North Dakota. We enforce pesticide laws and administrative rules to protect human health and the environment, and we conduct outreach to educate the public on how to comply with these requirements.

Over the past year or so, we have taken a critical look at our pesticide programs and how we interact with the regulated public. We started 2008 with an increased focus on customer service and improving communication, and we expanded our traditional enforcement-based mindset to use outreach and education to improve compliance. We also took a critical look at our program to ensure that our regulatory activities were fair and consistent, and we used risk as the driving force in how we allocate resources and respond to violations.

Department staff conducted 829 total pesticide inspections in the last federal fiscal year, an 11 percent increase compared with 2007 (Table 1). However, even with the increased number of inspections, we recorded a 50 percent drop in enforcement actions (Table 2). This increase in compliance is encouraging and likely indicates that the current focus on compliance assistance, as opposed to strictly enforcement, is effective and better serves both the regulated community and consumers. It also should be noted that the majority of pesticide users and dealers are in compliance.

Last year the department participated in all the commercial certification meetings and reached out to more than 1,200 people in 36 other grower and applicator meetings to explain regulatory requirements and alert

**Table 1. Comparing the number of NDDA pesticide inspections from 2007 and 2008.**

Type of Inspection	2007	2008
Agricultural Use	117	224*
Nonagricultural Use	17	34*
Pesticide Dealer	185	169
Bulk Repackaging	102	91
Certified Applicator Records	244	247
Agricultural Complaint	49	44
Nonagricultural Complaint	16	12
<b>Total</b>	<b>745</b>	<b>829</b>

\* Over 70 percent of these use inspections were conducted with applicators who had not been previously inspected.

**Table 2. Comparing NDDA pesticide enforcement actions for 2007 and 2008.**

Type of Enforcement Action	2007	2008
Warnings	269	139
Civil Complaints (Penalties)	71	30
<b>Total</b>	<b>340</b>	<b>169</b>
<b>Civil Penalties Collected*</b>	<b>\$25,675</b>	<b>\$17,650</b>

people to new pesticide-related initiatives. Several new informational brochures also were developed and distributed to help pesticide dealers and users better understand the law and regulations.

We had a great year. However, we did see an increased number of complaint calls alleging human exposure resulting from agricultural applications of fungicides and insecticides. We take human exposure cases seriously. Although fungicides and insecticides may not cause damage to crops, they can pose significant health risks to people. Unless permitted by the labeling, an applicator must take all reasonable precautions that will prevent exposure if unprotected people are present within the application site or are present in adjacent areas when off-target drift may occur. Please wait to apply pesticides another day if unprotected people are downwind.

Consistent with our risk-based regulatory strategy, we have identified

several priority regulatory areas for 2009. First, we will be increasing our regulatory oversight of fumigants, both with fumigant users and dealers. We also will continue to prioritize the use of pesticide use inspections as a means of educating applicators and verifying compliance.

We hope that you have noticed a change in how the department's pesticide program is doing business. We are convinced that the vast majority of people want to be in compliance with pesticide laws and regulations, but that is difficult if people don't understand what is required of them or whom to call if they have questions.

If you have questions, would like to schedule a compliance assistance visit or want a member of the department's pesticide program to visit with your association or staff, please give the department a call at (800) 242-7535 or contact Dave Phillips directly at (701) 328-4922 or e-mail [davephillips@nd.gov](mailto:davephillips@nd.gov).

# 2008-09 Commercial Pesticide Certification Calendar

Here are schedules you can use for planning your training needs during the next several months. These recertification trainings are structured to give certified commercial/public applicators/dealers the information necessary to maintain or renew their certificates in the appropriate categories.

Preregistration is required for all trainings because of material and space limitations. If you do not preregister, you have no guarantee you will get seated at the training.

A *Training Preregistration* form is published in this newsletter. Electronic forms for downloading and printing also are available at <http://ndsupesticide.org>.

Home-study course recertification is available for those categories that are not on the training calendar or for the following minor categories: home industrial and institutional, metam-sodium, public health, vertebrate and wood preservation. Request your materials for these courses with the *Nontraining Study Materials* request also printed in this newsletter.

## ■ Ground and Aerial for AgPest, Right-of-Way, Seed Treatment, and Research and Demonstration Recertification

Date	Time	Location
Feb.12, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Mandan, Seven Seas Hotel, 2611 Old Red Trail
Feb. 18, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Minot, Holiday Inn, 2200 Burdick Expressway E.
March 5, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Devils Lake, Knights of Columbus, 522 4th St.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Crosby, Divide County Extension, 300 2nd Ave. N.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	LaMoure, LaMoure County Courthouse, 202 4th Ave. N.E.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Fessenden, Wells County Extension, 600 Railway St. N.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Wahpeton, Richland County Courthouse, 418 2nd Ave. N.
March 11, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Watford City, McKenzie County Courthouse, 201 5th St. N.W.
March 26, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Fargo, Holiday Inn, 3803 13th Ave. S.

## ■ Tri-State Aerial Applicator Convention - Aerial Applicators Only for AgPest, Right-of-Way, Seed Treatment, and Research and Demonstration Recertification

Date	Time	Location
Feb. 25-27, 2009 (must attend both days)	Registration 7:30 a.m., Training 8 a.m. until noon on Feb. 27	Sheraton Hotel/Sioux Falls Convention Center, Sioux Falls, S.D.

## ■ Fumigation Recertification

Date	Time	Location
March 18, 2009	Registration 9:30 a.m., Training 10 a.m.-2:30 p.m.	Fargo, NDSU, Memorial Union Prairie Rose Room

## ■ Greenhouse, Ornamental and Turf Recertification

Date	Time	Location
Feb. 27, 2009; NCTGA Convention	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Fargo, Holiday Inn, 3803 13th Ave. S.

## ■ Public Health Recertification

Date	Time	Location
May 27, 2009	Registration 9 a.m., Training 9:30 a.m.-4 p.m.	Bismarck, Burleigh County Extension, 3715 Bismarck Expressway E.
May 27, 2009	Registration 9 a.m., Training 9:30 a.m.-4 p.m.	Fargo, Cass County Extension, 1010 2nd Ave. S.
May 27, 2009	Registration 9 a.m., Training 9:30 a.m.-4 p.m.	Grand Forks, County Extension, 51 4th St. S., S302
May 27, 2009	Registration 9 a.m., Training 9:30 a.m.-4 p.m.	Williams County Courthouse, 205 East Broadway

## ■ Right of Way ONLY Recertification

May 19, 2009; NDWCA Annual Sprayer School	TBA*	TBA* western/eastern North Dakota
May 21, 2009; NDWCA Annual Sprayer School	TBA*	TBA* western/eastern North Dakota

\* TBA To Be Announced in a future issue of the *Pesticide Quarterly* newsletter.

# Officials investigate pesticide exposure

## Metam sodium, other fumigants reviewed for label changes

Mitch Lies, Capital Press

*Editor's Note: The following article reprinted with permission from The Capital Press describes an unfortunate event that could have serious implications for users of soil fumigants. In North Dakota, this product is used primarily to prepare land for irrigated potato production. The Capital Press is an independent farm and ranch newspaper that serves California, Idaho, Oregon, Washington and other western states. It is published every Friday by Press Publishing Co., 1400 Broadway St. N.E., Salem, OR 97301. It also has a web presence at: [www.capitalpress.com](http://www.capitalpress.com)*

January 8, 2009 – It is described as the perfect storm for pesticide exposure. And when 22 people reportedly were exposed Oct. 17, 2007, to metam sodium gases from a Washington

potato field, the timing couldn't have been worse for farmers hoping to ease label restrictions on the widely used soil fumigant.

Twelve of the 22 exposure victims were treated that evening at Our Lady of Lourdes Hospital in Pasco, Wash. All were released the same evening.

The Washington State Health Department said it would not release the names of the victims.

"That's confidential information because it involves medical records," said Wayne Clifford, director of the state's Office of Environmental Health Assessment.

Their symptoms included coughing, congestion, headaches, nausea, and nose and throat irritation.

The exposure originated from a preplant application of metam to a field going from corn to potatoes.

If an application violation occurred, the state could issue a civil penalty of up to \$7,500 per violation, said Jason Kelly, spokesman for the Washington State Department of Agriculture.

Kelly said the department would not release additional information, including the name of the farmer or applicator involved in the incident, pending completion of its investigation.

The incident could prove a stumbling block for an agricultural industry hoping to shrink buffers proposed in new labels for metam sodium and other fumigants.

At the very least, according to Department of Health toxicologist

## Training Opportunities for New Applicators/Dealers

### "Introductory Basic Core Training"

The training is designed for commercial or public applicators and dealers who are new to pesticide certification in North Dakota. It will cover basic pesticide safety and handling practices, as well as relevant laws and regulations as they pertain to the distribution and use of pesticides. This training is not category specific. It will emphasize practices and procedures that should be useful to all applicators or dealers, whether they are seeking certification in the Agricultural Pest Control category, Wood Preservation category or any of the 10 other use categories found in North Dakota. The training also will describe the certification process and how to prepare and take exams to obtain a pesticide certificate.

New in 2008-09, we will offer this training live in real time via the Internet to any location that can receive a Windows Media Video Stream at 300 kbps or higher using Windows Media Video Version 9.0 or higher. For practical purposes, people who have a dial-up connection will not be able to view this training. To test your connection, go to: [www.ag.ndsu.nodak.edu/aginfo/pesticid/myth.htm](http://www.ag.ndsu.nodak.edu/aginfo/pesticid/myth.htm)

If you can view the Richard Zollinger videos, your computer and location will be able to connect to our webcast. People who wish to participate should call the NDSU Pesticide Training and Certification Program office to preregister at (701) 231-7180 or (701) 231-6388. Please preregister at least 10 days before the training date so we can process training materials and send you your confirmation (this will include the Web location if you are participating in the webcast).

Date	Time	Location
March 17, 2009	Registration 8 a.m., Training 8:30 a.m.-4 p.m.	Fargo, NDSU Memorial Union, Prairierose Room
April 14, 2009	Training 8:30 a.m.-4 p.m. CDT	Statewide via Internet Video Cast



Barb Morrissey, the case underscores the importance for producers to use caution when applying soil fumigants.

“Under inversion conditions, we have seen this repeatedly,” Morrissey said. “(Metam sodium gases) will accumulate in the breathing zone, and if people are in the way, they are going to breathe it.”

Another result of the incident, according to Sandy Halstead, an Environmental Protection Agency farm specialist in Prosser, Wash., is it is helping the agency understand what changes are needed to fumigant labels to prevent future exposures.

“This is giving us some learning opportunities as to whether what we proposed makes sense,” she said. “One thing we learned is we have to be very specific with what we include on the label.”

The Oct. 17 incident is one of five metam sodium exposure incidents the health department has investigated since 2000, Morrissey said. The incidents involve a total of 34 people, Morrissey said, including two Pasco-area residents who reportedly were exposed to the gases this fall after the Oct. 17 incident.

Included among the exposure victims Oct. 17 was a law enforcement officer who responded to the incident. Five of 17 victims interviewed by the health department did not seek medical treatment, Morrissey said.

Those treated were a 2-week-old infant, four young children, four teens and three adults, Morrissey said.

While these types of exposure cases are rare – especially when considering millions of pounds of metam sodium are applied to Washington’s fields each year - they are fairly consistent when a temperature inversion is present during an application, Morrissey said.

Also, Morrissey said, gauges installed by the health department and Washington State University to measure metam sodium gas emissions in Franklin County annually show peaks each October just before the Franklin County Irrigation District shuts off irrigators.

“A lot of metam sodium is going on that week before irrigation cutoff,” Morrissey said. “People are racing to get it on.”

The case Oct. 17 involved a pending irrigation cutoff and environmental conditions ideal for accumulation of metam gases and off-target drift, Halstead said. A temperature inversion trapped gases, Halstead said. Corn stubble present in the field acted like a chimney and released gases from soil into the atmosphere. And the stubble impeded the movement of the fumigant into the soil, leaving it to disperse into the atmosphere as a gas.

Also, Halstead said, the exposure victims were downhill from the sprinkler application, in an ideal position to be exposed. And, she said, temperatures rose into the mid-70s during the application, which helped keep gases volatile.

The warmer the weather, she said, the better the chance for off-target movement of fumigants.

Morrissey said health department investigators found evidence of off-target movement three days after the Oct. 17 application in foliar and soil samples taken from around the houses and from surfaces investigators swabbed.

In a presentation at the Hermiston Farm Fair Dec. 3, Halstead said changes proposed for metam sodium labels would have prevented the exposures. The families involved in the incident would have been in the buffer zone and told to vacate the area for 48 hours.

Depending on how much fumigant is used, application technique and other factors, buffers proposed for the new labels range from 25 feet to a half-mile, according to the EPA.

EPA officials are expected to reduce buffer requirements in cases where fumigants are shank-applied or where they are applied under a drizzle boom.

Grower groups and the pesticide industry have come out in opposition to the proposed restrictions, saying they will cost farmers millions of dollars annually on the West Coast alone in lost production and increased compliance expenses.

Environmental activists, meanwhile, say the proposed restrictions don’t go far enough to protect public health and the environment.

Metam sodium and four other fumigants under review are widely used throughout the U.S. by fruit and vegetable producers.

Growers use the broad-spectrum pesticides to control weeds, insects, diseases and nematodes. In 2005, Washington state growers applied more than 20 million pounds of metam, according to Washington State University figures.

A 2007 WSU report noted recent housing expansions into traditional farming areas are contributing to more health complaints.

In addition to metam sodium, fumigants being reregistered include methyl bromide, metam potassium, dazomet and chloropicrin.

The label changes are being implemented under the 1996 Food Quality Protection Act. Fumigants are some of the last pesticides reviewed under the act.

# Commercial Pesticide Recertification Pre-registration Form

## Training Pre-registration

<b>PERSONAL INFORMATION</b> (please print)
Name
Address P.O. box and street address
Phone
Date of birth
E-mail

<b>EMPLOYER/BUSINESS</b>
Name
Address P.O. box and street address
Phone
Fax
E-mail

**Correspondence from the Pesticide Office should go to which of the above addresses?**     personal     employer

N.D. County of Residence \_\_\_\_\_

N.D. Commercial Pesticide ID \_\_\_\_\_

Do you work for a government agency?     Yes     No

Is this certification for research and demonstration purposes?     Yes     No

Check all that apply on each line:    **Core Status**     Ground     Aerial  
**Certification Status**     Applicator     Dealer     Consultant

<b>Training/Pre-Registration</b>		
Study materials are provided at training. Do not request material for training(s) indicated below.		
▼ Check each category you are training in:	▼ Location of training	▼ Date
<input type="checkbox"/> Ag Pest		
<input type="checkbox"/> Right-of-Way		
<input type="checkbox"/> Seed Treatment		
<input type="checkbox"/> Fumigation		
<input type="checkbox"/> Greenhouse		
<input type="checkbox"/> Ornamental and Turf		
<input type="checkbox"/> Home, Industrial and Institutional		
<input type="checkbox"/> Public Health		
Total training/pre-registration categories _____ X \$10 = \$ _____		
Base fee (one-time charge per training season)		\$55
<b>Total</b>		\$ _____

**Method of Payment  
(payment must be included)**

**Credit Card**

Visa     MasterCard     Discover

Credit Card # \_\_\_\_\_

Expiration (mo/yr) \_\_\_\_/\_\_\_\_

Cardholder name (print) \_\_\_\_\_

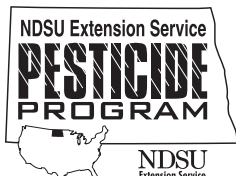
3-digit code \_\_\_\_\_    billing zip code \_\_\_\_\_

**Check/Money Order #** \_\_\_\_\_

Payable to NDSU Extension Pesticide Program  
*If paying by personal check, the state of North Dakota requires your birthdate on the check.*

**Send payment to:**  
 NDSU Extension Pesticide Program  
 NDSU Dept. 7060, P.O. Box 6050  
 Fargo, ND 58108-6050

**Must be postmarked 10 days prior to training.**



**For questions, contact the  
 NDSU Extension Pesticide Program Office  
 phone (701) 231-7180 or (701) 231-6388; fax (701) 231-5907**



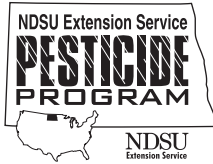
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## Private Applicator Fumigation Training Opportunities

Applicators who hold a valid Private Fumigation Applicator Certificate are welcome to participate in the recertification trainings listed below.

Registration at all locations and dates will begin at 9:30 a.m. CST.

The training will begin at 10 a.m. CST. An hour break is scheduled from noon to 1 p.m. CST. The training will conclude at 2:30 p.m. CST.

Space is limited, so applicators should preregister via telephone with the local NDSU county Extension office that will host the training. You should preregister a minimum of 10 days prior to the training so seating and adequate resources can be secured.

For exact training location details, please contact the appropriate NDSU county Extension office listed at right.

Date	Location	Contact Office for Preregistration	Telephone
Feb. 24, 2009	Beach	Golden Valley County Extension, 53 Central Ave. S.	(701) 872-4332
Feb. 24, 2009	Hettinger	Adams County Extension, Hettinger Research Extension Center	(701) 567-2735
Feb. 24, 2009	Linton	Emmons County Extension, 100 4th St. N.W.	(701) 254-5415
Feb. 24, 2009	Mandan	Morton County Extension, 210 2nd Ave. N.W.	(701) 667-3340
Feb. 24, 2009	Wahpeton	Richland County Extension, Courthouse, 418 2nd Ave. N.	(701) 642-7793
Feb. 24, 2009	Williston	Williams County Extension, Courthouse, 205 Broadway E.	(701) 577-4595
March 10, 2009	Bismarck	Burleigh County Extension, 3715 Bismarck Expressway E.	(701) 221-6865
March 10, 2009	Ellendale	Dickey County Extension, Courthouse, 309 2nd St. N.	(701) 349-3249
March 10, 2009	Grand Forks	Grand Forks County Extension, 151 4th St. S., Suite 302	(701) 780-8229
March 10, 2009	Jamestown	Stutsman County Extension, 116½ 1st St. E.	(701) 252-9030
March 10, 2009	Killdeer	Dunn County Extension, 125 Central Ave.	(701) 764-5593
March 10, 2009	Minot	Ward County Extension, Courthouse, 315 3rd St. S.E., Room 101	(701) 857-6444
March 24, 2009	Beulah	Mercer County Extension, 1400 Highway 49 N., #103	(701) 873-5195
March 24, 2009	Bowbells	Burke County Extension, Courthouse, 103 Main St. S.	(701) 377-2927
March 24, 2009	Carrington	Foster County Extension, Courthouse, 1000 5th St. N.	(701) 652-2581
March 24, 2009	Carson	Grant County Extension, Courthouse, 106 2nd Ave. N.E.	(701) 622-3470
March 24, 2009	Jamestown	Stutsman County Extension, 116 1/2 1st St. E.	(701) 252-9030
March 24, 2009	Napoleon	Logan County Extension, 301 Broadway	(701) 754-2504