

## **Endangered and Threatened Species Standard Procedures for General NPDES Permit Number NEP110000 for Pesticides Applications To, Over, or Near Waters of the State of Nebraska**

This document includes standard procedures that should be followed when applying pesticides to, over, or near waters of the State of Nebraska<sup>1</sup> in order to avoid adverse impacts to state listed endangered and threatened species. If pesticides applications to, over, or near waters of the state can follow the standard procedures below, then an individual consultation with the Nebraska Game and Parks Commission (NGPC) Environmental Review Team is not necessary. **If these standard procedures cannot be followed, an individual endangered and threatened species consultation with the NGPC Environmental Review Team will be necessary. Information on how to submit projects for consultation is located at the end of this document.**

Pesticides include, but are not limited to, algicides, antifouling agents, antimicrobials, attractants (except food), biocides, defoliants, desiccants, disinfectants and sanitizers, fungicides, fumigants, herbicides, insect growth regulators, insecticides, miticides, microbial pesticides, molluscicides, nematocides, ovicides, pheromones, plant growth regulators (excluding fertilizers or other plant nutrients), repellents, and rodenticides.

<sup>1</sup> *The terms “pesticide,” “near waters of the state,” and “waters of the state” are defined in Part V of the General NPDES Permit Number NEP110000 For Pesticides, Applications To, Over, or Near Waters of the State of Nebraska.*

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### **Standard Procedure for All Pesticide Applications To, Over, or Near Waters of the State.**

This section includes standard procedures for all pesticide applications to, over, or near waters of the State.

- All label instructions should be followed.
- Pesticides that could drift should be applied when the wind speed is 10 mph or less.
- Pesticides that could drift should be applied using a large droplet size in order to minimize drift. Nozzles with higher rated flows and using the lowest recommended spray pressure for a nozzle will produce larger droplets.
- Pesticides that could drift should be applied using the appropriate type and orientation of nozzles to minimize the potential for drift.
- Pesticides should not run-off into areas occupied by listed species.
- Pesticides should not affect listed species.
- Pesticide that are not approved for aquatic use should not run-off into areas with flowing or standing water.

## **Pesticide Applications to, over, or near Category 1, 2 or 3 Saline Wetlands<sup>2</sup> or streams/creeks within ½ mile of Category 1, 2, or 3 Saline Wetlands in Lancaster or Saunders County, NE**

This section includes standard procedures for applying pesticides to, over, or near Category 1, 2 or 3 Saline Wetlands in Lancaster or Saunders County, Nebraska or for applying pesticides to, over, or near streams/creeks within ½ mile of Category 1, 2, or 3 Saline Wetlands in Lancaster or Saunders County, Nebraska.

- Recommendations for pesticide applications to cut stumps or girdled trees:
  - 1) surfactants added to the base pesticide formulation should not be used without further consultation with the NGPC Environmental Review Team;
  - 2) each cut stump or girdled tree should be treated individually; and
  - 3) the herbicide should be applied directly to the cut stump or girdled trunk by means of a brush, drip bottle, roller, or other handheld implement that will not allow the herbicide to fall on non-target vegetation. Any other application method should not be used without further consultation with the NGPC Environmental Review Team.
- Recommendations for pesticide applications to phragmites, other noxious weeds, and non-desirable vegetation such as cattails, tall wheat-grass, and brome grass:
  - 1) pesticides should not be applied from May 15 – August 1 without further consultation with the NGPC Environmental Review Team.
  - 2) the pesticides should be applied with a backpack sprayer, handheld sprayer, ATV/truck/tractor mounted sprayer with hand operated wand/nozzle. Any other application method should not be used without further consultation with the NGPC Environmental Review Team; and
  - 3) a survey for saltwort (*Salicornia rubra*) should be conducted during the normal growing season (May 1 – September 30). If survey results are positive, further consultation with the NGPC Environmental Review Team will be necessary. If survey results are negative, the pesticide should be applied if using the recommendations above.
- Pesticides intended to kill insects, eggs or their larvae (including those intended to kill mosquitoes) should not be applied without further consultation with the NGPC Environmental Review Team.

<sup>2</sup> Gilbert, M. C. and R. G. Stutheit, eds. 1994. *Resource categorization of Nebraska's Eastern saline wetlands. Prepared for the Eastern Nebraska Saline Wetlands Interagency Study Project. U.S. Army corps of Engineers, Omaha District, and Nebraska Game and Parks Commission. 18 pp.*

## **Pesticide Applications within Stream and River Reaches of Concern for Listed Fish Species**

This section includes standard procedures for applying pesticides to, over, or near stream and river reaches of concern for listed fish species. Range map can be viewed in the CERT Map viewer ([cert.outdoornebraska.gov](http://cert.outdoornebraska.gov)) by turning on the “Tier 1 at-risk species - Ranges/Models” layer and then turning on the corresponding sublayer.

- Pesticides and/or surfactants that are toxic to fish should not be applied to, over, or near the stream and river reaches of concern for listed fish species.

- Surfactants, added to the base pesticide formulation, should not be applied directly to stream and river reaches of concern or allowed to run-off into stream or river reaches of concern without further consultation with the NGPC Environmental Review Team.
- Aquatic herbicides with the sole active ingredient imazapyr and labeled for use in aquatic systems is recommended for use to, over, or near the stream and river reaches of concern.

### **Pesticide Applications within the Range of American Burying Beetle**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of American burying beetle (*Nicrophorus americanus*). Range map can be viewed in the CERT Map viewer ([cert.outdoornebraska.gov](http://cert.outdoornebraska.gov)) by turning on the “Tier 1 at-risk species - Ranges/Models” layer and then turning on the corresponding sublayer.

- Pesticides can be applied to, over, or near waters of the state within the range of American burying beetle if the pesticide is being applied within city limits, in row crop fields or alfalfa fields.
- Except for within city limits, row crop fields or alfalfa fields, surfactants added to the basic pesticide formula should not be applied to, over, or near waters of the state within the range of American burying beetle from May 1 - September 15 without further consultation with the NGPC Environmental Review Team.
- Except for within city limits, row crop fields or alfalfa fields, any pesticide intended to kill insects, eggs, or their larvae should not be applied to, over, or near waters of the state within the range of American burying beetle from May 1 - September 15 without further consultation with the NGPC Environmental Review Team.

### **Pesticide Applications within the Range of American Ginseng**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of American ginseng (*Panax quinquefolium*). Range map can be viewed in the CERT Map viewer ([cert.outdoornebraska.gov](http://cert.outdoornebraska.gov)) by turning on the “Tier 1 at-risk species - Ranges/Models” layer and then turning on the corresponding sublayer.

- If defoliants, desiccants, herbicides, or plant growth regulators need to be applied to, over, or near waters of the state in mature oak woodlands within the range of American ginseng, then a survey for American ginseng should be conducted prior to pesticide application. Surveys should be conducted during the growing season (May 15 – August 31). If survey results are positive, further consultation with the NGPC Environmental Review Team will be necessary. If survey results are negative, the pesticide can be applied.

### **Pesticide Applications within the Range of Blowout Penstemon**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of blowout penstemon (*Penstemon haydenii*). Range map can be viewed in the CERT Map viewer ([cert.outdoornebraska.gov](http://cert.outdoornebraska.gov)) by turning on the “Tier 1 at-risk species - Ranges/Models” layer and then turning on the corresponding sublayer.

- If defoliants, desiccants, herbicides, or plant growth regulators need to be applied to, over, or near waters of the state adjacent to blowouts within the range of blowout penstemon, then a survey for blowout penstemon should be conducted prior to pesticide application. Surveys should be conducted during the blooming season (May 15 – June 30). If survey results are positive, further consultation with the NGPC Environmental Review Team will be necessary. If survey results are negative, the pesticide can be applied.

### **Pesticide Applications within the Range of Colorado Butterfly Plant**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of Colorado butterfly plant (*Gaura neomexicana ssp.coloradensis*). The **range of Colorado butterfly plant** is in Kimball County within ½ mile of Lodgepole Creek from the City of Kimball west to the county line.

- If defoliants, desiccants, herbicides, or plant growth regulators need to be applied to, over, or near waters of the state within the range (see above) of Colorado butterfly plant, then a survey for this species should be conducted prior to pesticide application. Surveys should be conducted during the blooming season (August). If survey results are positive, further consultation with the NGPC Environmental Review Team will be necessary. If survey results are negative, the pesticide can be applied.

### **Pesticide Applications within the Range of Piping Plover and Interior Least Tern**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of Piping Plover (*Charadrius melodus*) and Interior Least Tern (*Sternula antillarum athalassos*). Range map can be viewed in the CERT Map viewer ([cert.outdoornebraska.gov](http://cert.outdoornebraska.gov)) by turning on the “Tier 1 at-risk species - Ranges/Models” layer and then turning on the corresponding sublayer.

- Pesticides may be applied to, over, or near waters of the state within the range of plovers and terns from August 16 – April 14, which is outside of the plover and tern nesting season.
- Aircraft (i.e. helicopters, airplanes, etc.) should not be used to apply pesticides to, over, or near waters of the state within the range of plovers and terns during the plover and tern nesting season (April 15 – August 15) without further consultation with the NGPC Environmental Review Team.
- For all other means of applying pesticides during the plover and tern nesting season (April 15 – August 15) other than by aircraft, such as by airboats or by ATV from the bank, then a plover and tern survey should be conducted within ¼ mile of the application area if plover and tern nesting habitat (sandbars, sand pits, sandy beaches, etc.) is present within that area. Surveys should be conducted within 3 days of the pesticide application. If plovers or terns are nesting within ¼ mile of the application area, further consultation with the NGPC Environmental Review Team will be necessary.
  - In order to avoid unnecessary duplication of survey efforts and disturbance to nesting birds resulting from survey activities, it is recommended that the applicant contact Michelle Koch (402-471-5438), Environmental Analyst Supervisor, NGPC, prior to conducting a survey. Several segments of river and some sand and gravel pits are

monitored weekly for plover and tern use by different agencies/entities, and it is possible the application area has already been surveyed.

- Bird repellents should not be applied to, over, or near waters of the state within the range of piping plovers or interior least terns during the nesting season (April 15 – August 15) without further consultation with the NGPC Environmental Review Team.

### **Pesticide Applications within the Range of Scaleshell Mussel**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of scaleshell mussel (*Leptodea leptodon*). The **range of scaleshell mussel** occurs in the Missouri River bordering Cedar and Dixon Counties.

- Algicides, antifouling agents, and molluscicides should not be applied to, over, or near waters of the state within the range (see above) of scaleshell mussel without further consultation with the NGPC Environmental Review Team.

### **Pesticide Applications within the Range of Small White Lady's Slipper**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of small white lady's slipper (*Cypripedium candidum*). Range map can be viewed in the CERT Map viewer ([cert.outdoornebraska.gov](http://cert.outdoornebraska.gov)) by turning on the "Tier 1 at-risk species - Ranges/Models" layer and then turning on the corresponding sublayer.

- Habitat for small white lady's slipper includes wet meadows (including hay meadows), subirrigated meadows, side-hill seeps in grasslands, and roadsides or ditches adjacent to or across the road from any of the aforementioned habitats.
- If defoliants, desiccants, herbicides, or plant growth regulators need to be applied to, over, or near waters of the state within habitat for small white lady's slipper, then a survey for this species should be conducted prior to pesticide application. Surveys should be conducted during the blooming season (May 15 – June 7). If survey results are positive, further consultation with the NGPC Environmental Review Team will be necessary. If survey results are negative, the pesticide can be applied.

### **Pesticide Applications within the Range of Southern Flying Squirrel**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of southern flying squirrel (*Glaucomys volans*). Range map can be viewed in the CERT Map viewer ([cert.outdoornebraska.gov](http://cert.outdoornebraska.gov)) by turning on the "Tier 1 at-risk species - Ranges/Models" layer and then turning on the corresponding sublayer.

- Attractants, intended to attract mammals, and rodenticides, should not be used/applied to, over, or near waters of the state within mature oak woodlands within the range of southern flying squirrel without further consultation with the NGPC Environmental Review Team.

### **Pesticide Applications within the Range of Swift Fox**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of swift fox (*Vulpes velox*). Range map can be viewed in the CERT Map viewer

(cert.outdoornebraska.gov) by turning on the “Tier 1 at-risk species - Ranges/Models” layer and then turning on the corresponding sublayer.

- Attractants, intended to attract mammals, should not be used/applied to, over, or near waters of the state within the range of swift fox without further consultation with the NGPC Environmental Review Team.

### **Pesticide Applications within the Range of Ute Ladies’-tresses**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of Ute ladies’-tresses (*Spiranthes diluvialis*). The **range of Ute ladies’-tresses** is in Sioux County within ½ mile of the Niobrara River.

- If defoliants, desiccants, herbicides, or plant growth regulators need to be applied to, over, or near waters of the state within the range (see above) of Ute ladies’-tresses, then a survey for this species should be conducted prior to pesticide application. Surveys should be conducted during the blooming season (August 15 - August 30). If survey results are positive, further consultation with the NGPC Environmental Review Team will be necessary. If survey results are negative, the pesticide can be applied.

### **Pesticide Applications within the Range of Western Prairie Fringed Orchid**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of western prairie fringed orchid (*Platanthera praeclara*). Range map can be viewed in the CERT Map viewer (cert.outdoornebraska.gov) by turning on the “Tier 1 at-risk species - Ranges/Models” layer and then turning on the corresponding sublayer.

- Habitat for western prairie fringed orchid includes wet meadows (including hay meadows), sub-irrigated meadows, side-hill seeps in grasslands, and roadsides or ditches adjacent to or across the road from any of the aforementioned habitats.
- If defoliants, desiccants, herbicides, or plant growth regulators need to be applied to, over, or near waters of the state within habitat for western prairie fringed orchid, then a survey for this species should be conducted prior to pesticide application. Surveys should be conducted during the blooming season (June 15 – July 15). If survey results are positive, further consultation with the NGPC Environmental Review Team will be necessary. If survey results are negative, the pesticide can be applied.

### **Pesticide Applications within the Range of Whooping Crane**

This section includes standard procedures for applying pesticides to, over, or near waters of the state within the range of Whooping Crane (*Grus americana*). Range map can be viewed in the CERT Map viewer (cert.outdoornebraska.gov) by turning on the “Tier 1 at-risk species - Ranges/Models” layer and then turning on the corresponding sublayer.

- If the pesticide application needs to occur during the spring (March 6 – April 29) or fall (October 9 – November 15) whooping crane migration seasons, a whooping crane survey should be conducted according to the standard protocol (see attached) prior to application that day. If whooping cranes are sighted, the pesticide application should be postponed until whooping

cranes are no longer present within ½ mile of the application area. Pesticides will not likely have direct, adverse impacts on whooping cranes, but human presence and disturbance while applying the herbicides may flush whooping cranes from feeding or roosting areas.

- Bird repellents should not be applied to, over, or near waters of the state within the range of whooping crane during the spring (March 6 – April 29) or fall (October 9 – November 15) whooping crane migration seasons without further consultation with the NGPC Environmental Review Team.

### **How to Submit a Project for Individual Review and Informal Consultation**

If pesticides cannot be applied according to the procedures outlined above, then the pesticide application project should be submitted to the NGPC Environmental Review Team for an individual endangered and threatened species review and consultation. **Please allow 30 days for review.** An individual review/consultation is valid for one year. Please submit the following project information:

- Contact information (name, business mailing address, phone number, email address)
- Project location (county/counties or township, section, range or latitude/longitude coordinates)
- Type of pesticide(s) being applied
- Type of surfactant(s) being used
- Purpose of pesticide application
- Projected date(s)/month(s) for pesticide application
- Application Method (e.g. hand held sprayer, helicopter, ATV, etc.)
- Map with a delineation of the application area (unless it is the entire county)
- Other pertinent project information

To request a review, submit the project information to:

Address for Mailing

Environmental Review Team  
Planning & Programming Division  
Nebraska Game and Parks Commission                      **or**  
2200 North 33<sup>rd</sup> Street  
Lincoln, NE 68503

Email

[ngpc.envreview@nebraska.gov](mailto:ngpc.envreview@nebraska.gov)

Questions regarding the **General NPDES Permit for Pesticides** should be directed to Jordan Jaeger, Nebraska Department of Environmental and Energy, at (402) 471-0098.

Questions regarding the **Endangered and Threatened Species Standard Procedures** or any other questions regarding whether or not a pesticide application will affect state listed endangered or threatened species should be directed to the Environmental Review Team, Nebraska Game and Parks Commission, at (402) 471-5554 or (402) 471-5423.