Who has access to information gathered in an investigation?

Under the Nevada Open Record Law, Nevada Revised Statute 239.005, the public has the right to review and obtain case files after an investigation is complete. NDA policy requires that all requests for case files be in writing. The request will then be forwarded to the State of Nevada Attorney General's office for consideration. NDA will approve, partially approve, or deny the request within ten business days or notify the applicant that an extension is necessary to process the request. NRS 239.005 allows NDA to charge for the costs for responding to public requests for information. The fee cannot exceed the actual cost of duplication.

Will I be compensated for damages?

The Nevada Pesticide Law contains no provisions for compensation to be made to individuals. Private civil action may be required in some instances to recover damages that have been incurred.

If a misapplication or a spill occurs, what should I do?

NDA highly recommends that individuals who believe they have been exposed to pesticides remove all contaminated clothing, take a shower and seek medical attention immediately to treat any symptoms of pesticide poisoning. Separately launder contaminated clothes before wearing them. Animals should be removed from a contaminated site or contaminated feed, and given veterinary care immediately.

What are NDA's goals for responding to complaints and the completion of a case report?

When you contact NDA to ask for assistance, an investigator will respond promptly. You will be asked to complete a formal complaint. However, this may be required in order to initiate an investigation. Each case may vary in the length of time it takes to complete. Variables that affect the duration of an investigation include complicated laboratory analysis, the need for follow-up visits and interviews, and the investigator's overall caseload. NDA's goal is to complete the information gathering, written report and review in a timely manner. The department remains committed to providing a professional, unbiased, complete and thorough investigation.

If you have additional questions or would like to know more about the investigative process, please contact an NDOA office:

Sparks

State of Nevada
Department of Agriculture
405 South 21st Street
Sparks, Nevada 89431
(775) 353-3601

Las Vegas

State of Nevada
Department of Agriculture
2300 McLeod Street
Las Vegas NV 89104-4314
(702) 668-4590

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In cooperation with
University of Nevada Cooperative Extension

PESTICIDES

Understanding the Investigation and Enforcement Process

The Nevada Department of Agriculture (NDA), Division of Plant Industry, is responsible for the investigation of the misuse of pesticides and the enforcement of state laws regarding pesticide use. Pesticides include but are not limited to chemicals used to safeguard crops as well as those used in and around homes and businesses to kill insects, plant and animal diseases, weeds and other pests.

Who regulates the use of pesticides in Nevada?

NDA regulates the registration, sale, distribution, use, storage and disposal of pesticides under the authority of state laws and rules governing pesticides. The Environmental Protection Agency (EPA) has also given primacy to NDA in areas relating to pesticide use and distribution.

What is the role of NDA?

The role of NDA is to ensure the safe and proper use of pesticides through education and regulation for the protection of people, animals, wildlife and the environment of the State of Nevada. Enforcement is one of several tools used to promote compliance with laws designed to fulfill this role.

What is the role of the NDA investigator?

The investigator's job is to maintain an unbiased approach in collecting the facts regarding the possible misuse or proper use of a pesticide. The investigator will document what happened by conducting interviews; collecting statements, application records, and pesticide labels; taking photographs; and making on site assessments. The investigator may also collect physical evidence such as soil, vegetation, clothing, surface swabs, water and other samples. In farness to everyone involved, it is important for individuals to give the investigator complete and accurate accounts of the events that occurred. NDA personnel will collect all samples and evidence for use in an investigation to maintain a proper chain of custody and ensure that the information obtained can be used, if needed, in a formal hearing.

What gives an NDA investigator the authority to inspect my property and equipment?

The Nevada Revised Statutes (NRS 555) and the Nevada Administrative Code (NAC 555) provide that the Director's designated agent (NDA investigator) may enter any public or private premise at reasonable times for the purpose of:

- Observing the use and application of pesticides;
- Inspecting records that are required to be maintained by the law;
- Inspecting equipment, storage facilities and disposal areas;
- Investigating complaints of injury regarding human health, plant injury or environmental damage;
- Collecting samples of soil, plants or pesticides.

Will I be kept informed on the progress of the investigation?

As the lead person for the investigation, the NDA investigator can keep you informed on the progress of the investigation. Certain information may not be released if it is determined that it could interfere with the progress of the investigation or potential enforcement action. Results of laboratory analyses performed on samples from your property can be shared with you while the investigation is underway. When a decision is made you will be notified whether or not a regulatory action will be taken. You can also contact the nearest field office or the Reno office using the numbers listed in this brochure if you want to be kept informed of the progress of the investigation. You may also request a copy of the report, once the investigation has been completed, by sending a written request for the investigation report to the Reno office.

What happens when the investigator completes the investigation?

At the end of the investigation, the investigator will complete a narrative report that will be circulated among all concerned individuals. The report will be reviewed to determine if there were any violations of the Nevada Pesticide Law, Administrative code or associated rules, and if there is sufficient evidence to support the alleged violations(s). Once it has been determined that a violation has occurred, a decision will be made as to what regulatory action will be taken. NDA may take any one of the following actions depending on the severity of the violation and whether the violator has a history of previous violations. NDA may:

- Issue a written Settlement Agreement;
- Issue a written letter of warning;
- Issue an administrative penalty up to $5,000.00;
- Conduct a formal hearing with fines up to $5,000.00 per count, probation, and corrective action taken;
- Suspend, deny, revoke, or modify the applicator's certification and/or license.

What should I do if I think there is a problem with the investigation or I forgot to tell the investigator something?

Call the investigator or the Regional Manager or the Administrator of the Plant Industry Division. Please call the investigator first. The investigator needs to know all the facts in order to do a thorough and professional investigation.