

Applicator Notification of Alleged Property Damage

Under North Dakota state law (N.D.C.C. 4.1-33-18), you cannot file a civil action seeking reimbursement for property damage allegedly stemming from the application of a pesticide without first notifying the applicator of the alleged damage within the earlier of:

1. Twenty-eight days from the date the person first knew or should have known of the alleged damage; or
2. Before twenty percent of the crop or field allegedly damaged is harvested or destroyed.

This requirement is meant to be a simple notification to the applicator. To simplify this process the Department has created this template form that can be used for the notification. You may also write up your own notification or have one prepared by your legal counsel. To properly serve the required notification, fill out the following form and send it by certified mail (keep the mail receipt showing acceptance) to the applicator.

If there were multiple applications from multiple applicators, and you are unsure which application was the cause of your alleged damage, you should send a notification to all parties that may have caused said damage.

If the applicator refuses the certified mailing, or if you feel a certified mailing will not reach the applicator in time, you may contact your local law enforcement and request that they serve the notification upon the applicator. Most law enforcement agencies will perform this for a nominal fee. They will also provide documentation showing the notification was served.

Please remember that NDDA pesticide investigations are only to determine whether a violation of state law can be substantiated, and all investigation files are confidential records that can only be released through a court order, or if the documents were used as an exhibit in an administrative law hearing. You are responsible for conducting your own investigation and collecting your own evidence to build your civil case against the applicator. The Department recommends you obtain the services of an independent third party (certified crop consultant, local agronomist, etc...) to conduct the investigation.

After notifying the applicator as required, you are also required to allow the applicator and up to four of their representatives to enter the property for the purposes of observing and examining the alleged damage. **If you fail to allow entry, you are barred from asserting a claim against the applicator under state law (N.D.C.C. 4.1-33-18).**

