

## **Pesticide Incident Records Policy**

The South Dakota Department of Agriculture and Natural Resources (DANR) works cooperatively with the EPA to register and regulate the use of pesticides in the state. Pesticides include herbicides (weed control), insecticides (insect control), fungicides (fungus control), rodenticides (prairie dogs, rats, mice, rodent control), avicides (birds), and predicides (coyotes, predators).

The DANR has the authority to investigate allegations of violations of pesticide law based on incident reports. Records included in this policy include applications by unlicensed applicators, or applications inconsistent with label restrictions approved by the EPA and DANR.

The DANR may collect samples (soil, vegetation, water, etc.), take photos, interview witnesses, collect spray records, and gather any other information necessary for the DANR to determine if a violation of label or state laws has occurred. If DANR determines a violation of law or label has occurred, enforcement actions may be taken against the applicator or others found to be in violation. An enforcement action can range from a warning to a maximum civil penalty of \$5,000 per offense. DANR's Secretary may also deny, revoke, or suspend a pesticide applicator's license. The DANR does not litigate or assist with the collection of private property damages that may have occurred as a result of violations of state fertilizer or pesticide laws.

**In situations where an enforcement action is taken by the department, a copy of the pesticide incident report form, lab results from samples collected, and the final closure letter will be made available to the public on the searchable DANR Web page for a period of four years.**

**[https://danr.sd.gov/Agriculture/Inspection/Pesticide/Enforcement and Drift Data.aspx](https://danr.sd.gov/Agriculture/Inspection/Pesticide/Enforcement%20and%20Drift%20Data.aspx)**

All other records collected as part of the pesticide investigation will not be disclosed as an open record and will only be disclosed through a subpoena, court order or if the record is used during an administrative hearing. South Dakota Codified Law (SDCL) 1-27-1.5(5), "records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, if the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, are exempt from disclosure."