

**N.D.A.G. Letter to Tollefson (Sep. 10, 1987)**

September 10, 1987

Mr. Douglas Tollefson, Director  
Pesticide/Noxious Weed Division  
North Dakota Department of Agriculture  
State Capitol  
Bismarck, ND 58505

Dear Mr. Tollefson:

Thank you for your letter of August 10, 1987, concerning record keeping under the North Dakota Pesticide Act.

N.D.C.C. § 4-35-16 states that the Pesticide Control Board is to

"require licensees, except private applicators, to maintain records with respect to applications and sales of restricted use pesticides. Such relevant information as the Board may deem necessary may be specified by regulation. The records shall be kept for a period of three years from the date of the application or sale of the restricted use pesticide to which the records refer. Upon request, these records or pertinent parts thereof, shall be submitted to the commissioner."

N.D. Admin. Code § 60-03-01-07 requires every pesticide dealer to "keep an accurate and complete record of all purchases and sales of restricted use pesticides, which record shall include the following .

N.D.C.C. § 4-35-05 defines the terms "distribute" and "pesticide dealer" as follows:

8. "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in the state.
20. "Pesticide dealer" means any person who distributes restricted use Pesticides.

N.D.C.C. § 4-35-12 states that it is "unlawful for any person to distribute restricted use pesticides or assume to act as a restricted use pesticide dealer, at any time, without first having obtained an annual license . . . . A license shall be required for each location or outlet located within the state from which restricted use pesticides are distributed . . . ."

You have informed this office that your inspectors have knowledge that both the large pesticide distributor and its member elevator are licensed as pesticide dealers in North Dakota. Therefore, both are responsible under the law for maintaining records for

restricted use pesticide sales. As a practical matter, one entity may gather and record the information, but both entities are required to maintain it and make it available to the commissioner upon request.

Sincerely,

Nicholas J. Spaeth

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