

Getting the Pesticide Law Enforced

One in a Series of “How-To’s”



In order to be effective or to have any relevance, environmental laws, like other laws, must be enforced. Pesticides are regulated primarily under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which authorizes the U.S. Environmental Protection Agency (EPA) to oversee the registration, distribution, sale, and use of pesticides. States are authorized to regulate pesticides under FIFRA and under state pesticide laws, which differ from state to state. The application of pesticides must be in a manner consistent with both federal and state laws.

When it comes to enforcement, states have primary authority for compliance monitoring and enforcing against use of pesticides in violation of the law. Generally, many pesticide complaints arise because the pesticide was used in violation of labeling requirements, applied at the wrong location, or because of pesticide drift.

If you believe that a pesticide application has violated the law, or you believe that the application has harmed you

or the environment, there are some measures you can take. The following are a few tips Beyond Pesticides believes can be useful:

Note: If you experience symptoms, please seek medical attention first!

You suspect contamination or poisoning, where do you begin?

You have a right to request and get your state’s lead pesticide agency to send an investigator to the complaint site and initiate an investigation. Usually it is the state’s department of agriculture, but it may be a state’s environmental agency or other agency. Call the Governor’s office to identify the lead agency and then file a complaint with an investigator at that agency. Complaints may be taken in writing or orally, however since each state may have different procedures, it is recommend that you establish which is acceptable. Complaint forms may be available online as well. Time limitations may also apply and will differ by state, and in many cases, evidence of pesticide misuse will no longer be present after a period of time. Therefore you should contact the relevant authorities soon after the event occurs.

What should you expect next?

The pesticide enforcement office for the state is responsible for enforcing the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and is paid with federal funds to ensure compliance with the law. You will be asked several questions regarding the event. Some questions may include:

1. *When and where did the suspected violation take place? (County, township, street address or fire number.)*
2. *Do you know who made the application or the name of the company?*
3. *What kind of equipment was used to make the application?*
4. *What was the weather like during the application? (Including wind speed and direction, or temperature.)*
5. *Was any drift from the application visible to you or is there visible evidence that pesticides moved from the application site?*

When a complaint is received, the state is responsible for carrying out an investigation and taking an enforcement action

(or deciding not to) within a certain period of time (30 days). If the state fails to do this, the matter can be referred to your regional EPA office. The EPA will then issue a 90 day notice for the state to respond to the matter. If the state still fails to respond, the EPA has the authority to act.

What if you get a negative response from the lead agency?

Enforcement agencies may be reluctant to assist you so persistence and political muscle is required. *Follow-up all phone conversations with a letter* confirming what was discussed. Send around copies of this letter, with a listing at the bottom of the letter of all those to whom the letter is distributed, including: The Administrator, U.S. EPA; Governor; other elected officials. This is critical if the lead agency is not helpful.

Should you investigate?

If state officials do not respond immediately, you may want to hire a lab (contact Beyond Pesticides for information on how to choose a lab) to do your own testing for contamination.

Is it worth all the trouble?

State action may prevent future contamination. In addition, a state record may assist in pursuing legal action and set a precedent for others.

For more information contact Beyond Pesticides.

BEYOND PESTICIDES

701 E Street, S.E., Suite 200, Washington DC 20003
202-543-5450 (v) • 202-543-4791 (f)
info@beyondpesticides.org • www.beyondpesticides.org