



COLORADO ENVIRONMENTAL PESTICIDE EDUCATION PROGRAM

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COMMERCIAL PESTICIDE APPLICATION COMPLAINTS

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This fact sheet discusses the process of a commercial pesticide application complaint.

<http://www.cepep.colostate.edu>

Commercial Pesticide Application Complaints

Who can file a complaint?

Anyone who believes that a violation of the Pesticide Applicators' Act has occurred. The [Colorado Department of Agriculture](http://www.cda.state.co.us) (CDA) may also initiate a complaint upon receipt of information such as advertisements or referrals from other government agencies.

What happens after a complaint is filed?

After a complaint is received by the CDA, it is given a file number and assigned to an investigator.

Role of the Inspector

- Contact and interview the complainant(s), applicator(s), and other witnesses. All interviews are tape recorded and information reports are filed with the CDA
- Document incident information through maps, photographs, statements, pesticide labels, and on-site assessments, which are compiled into an investigator information report
- Collect physical evidence such as soil, vegetation, and water samples to aid in the determination of if a violation has occurred.
- Deliver samples to CDA to be analyzed for pesticide residues or for detection of disease, insect, or pesticide damage

Role of the Complainant

Provide investigator the following information:

- General information - your name, location of problem, description of complaint, applicator and application information, injuries to humans, animals, and/or crop or commodity
- Method of application - type of application (nonagricultural, aerial, or agricultural ground), description of application equipment, application pattern or method
- Other relevant applications of pesticides made in the vicinity of the treated area, before or at the same time as the application being investigated
- Other relevant applications of pesticides made in the vicinity of the treated area, after the application was being investigated and before the samples are taken
- If applicable, the cultural practices of the field or site showing damage
- Other witnesses to the incident
- A description of the incident
- A map of the incident

Role of the Applicator

The applicator is required to provide the investigator his or her records of the application in question. The applicator is not required, but is strongly suggested, to provide the investigator the following information:

- Name of complainant
- Company name and information
- Detailed records of the application
- Personal protective equipment used at time of application
- If applicable, were signs posted after the application
- If applicable, were attempts made to notify all persons on the pesticide-sensitive registry
- Factors affecting a possible cross-contamination of pesticide products used
- General conditions of application equipment and pesticides used in this equipment for the previous two applications, if relevant
- Method of application - type of application (nonagricultural, aerial, or agricultural ground), description of application equipment, application pattern or method
- A description of the incident
- A map of the incident

The CDA's intent is to determine if a misapplication or other violation of the [Pesticide Applicators' Act](#) has occurred.

How long does an investigation take?

There is no set time frame. All CDA procedures are defined by law and all licensees and registrants are entitled to due process under the law. Investigations, reviews, and resolutions of a complaint involve many legal procedures. Consequently, resolutions can be a time consuming process and may take anywhere from a few weeks to a few years in some rare cases.

The CDA is limited to disciplinary actions against an individual's or a business' commercial license or registration and cannot require restitution for damages. If it is decided that possible criminal activities are involved, the case will be referred to the appropriate authority.

What happens to the samples?

Samples are submitted to the CDA's lab for analysis. The order in which samples are analyzed is determined by the pesticide(s) involved. In addition, if a new type of pesticide product is involved, delays can result if the lab does not have the methods, chemicals, or equipment needed for the analysis. Other delays can result because of volume or complexity of the samples to be analyzed.

Sample analysis generally takes anywhere from a few weeks to a few months. In some rare cases it can take much longer.

What happens to the information collected by the investigator?

Upon completion of the investigation, the case file is reviewed by the CDA to determine if violations have occurred and if there is evidence to support the allegations.

Who gets a copy of the investigation case file?

The CDA will not release any information related to the investigation, with the exception of the complainant's statement, until a final resolution has been made. At that time CDA will consider written requests for information which is not confidential.

What happens after the CDA reviews the case file?

A decision is then made as to how to proceed. The complaint may be dismissed if the available evidence does not support a conclusion that a misapplication or other violation has occurred; more investigation might be necessary, including additional meetings with the applicators involved; or if the case involves an unlicensed applicator it may be referred to the Attorney General's office.

If it is determined that a misapplication or violation of the Pesticide Applicators' Act has occurred, further decisions must be made to resolve the complaint. Resolutions can range from written reminders or reprimands to legal stipulations that may require additional training, revision of company policies, suspensions, civil penalties, or in extreme cases revocation of a license.

The complainant will be notified in writing as to the outcome of their complaint and copies of the analyses of samples taken will be provided to them at that time.

References and Resources

Q & A: *Pesticide Application Complaints*. Colorado Department of Agriculture, Division of Plant Industry, Lakewood, CO. <http://www.ag.state.co.us/DPI/PesticideApplicator/FAQComplaint.html>.

Smith, W. 2001. Personal communication. Colorado Department of Agriculture, Division of Plant Industry, Lakewood, CO.

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