

How to Report Pesticide Misuse in Florida¹

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Introduction

Pesticides provide many benefits, but risks accompany their use. In any situation, using pesticides is a balancing act between the pesticide's benefits and its potential risks. On a daily basis, pesticide applicators must balance these risks and benefits to best protect humans, animals (i.e., wildlife, pollinators, birds, and fish), and the environment (i.e., non-target plants, water, and soil resources) from harmful impacts.

The first statement on the "Directions for Use" section of every registered pesticide label clearly states "It is a violation of Federal law to use this product in a manner inconsistent with its labeling" (Figure 1). A clear interpretation of this statement is that a pesticide must be used, stored, and disposed strictly according to the label. These instructions will help determine a pesticide use or misuse. The label provides precautionary statements that address hazards to humans and domestic animals, and environmental and physical hazards, among other pesticide safety information. Agricultural use product labels contain specific information on how to comply with the Worker Protection Standard (WPS) to protect farm workers and pesticide handlers from pesticide occupational exposure (Figure 2).

Pesticide accidents can happen for a variety of reasons. People can make mistakes, and sometimes malicious intent is involved. In some situations, pesticides have drifted or runoff from their intended targets to cause harm to bystanders, communities, and the environment (see Figures 3, 4, and 5). Regardless of the reason, mistakes with pesticides

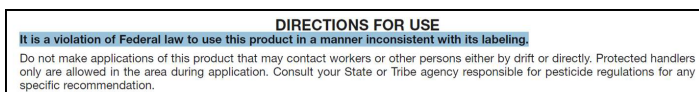


Figure 1. Pesticide product label "Directions for Use" statement.
Credits: Crop Data Management Systems (CDMS)

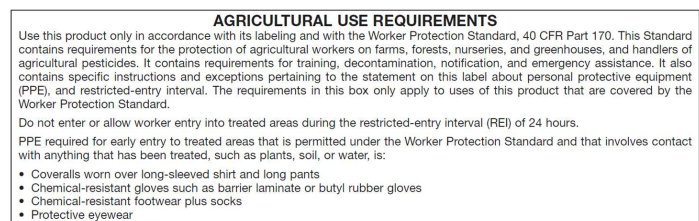


Figure 2. Pesticide product label "Agricultural Use Requirements."
Credits: CDMS

seldom escape public scrutiny. Pesticide applicators carry the responsibility and liability associated with the safe and proper use of any pesticide product.

Legal Authority

When harm does occur, the Florida Department of Agriculture and Consumer Services (FDACS) and the Environmental Protection Agency (EPA) share joint responsibility to monitor and enforce the pesticide state and federal regulations in Florida. The overall goal is to protect property, animals, humans, and the environment from the application of pesticides.

FDACS is authorized under state law to enter, announced or unannounced, any public or private premises where pesticides are known or thought to be distributed, sold,

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Figure 3. Herbicide drift injury on an ornamental tree. Credits: UF/IFAS Pesticide Information Office

offered for sale, held, stored, or applied to enforce and carry out investigations and inspection work as needed. FDACS investigates any complaint filed if the complaint is in writing, signed by the complainant, and is legally sufficient. A complaint is legally sufficient if it contains facts showing that a violation may have occurred. To determine legal sufficiency, FDACS may require supporting information or documentation. Anonymous complaints or a complaint made by a confidential informant may be investigated if:

- The complaint is in writing.
- The complaint is legally sufficient.
- The alleged violation is substantial.
- After preliminary inquiry, there is reason to believe that the alleged violation in the complaint is true.

Anyone who knowingly makes a false complaint in writing commits a punishable second-degree misdemeanor. Under certain circumstances, other agencies such as the Federal Food and Drug Administration, the Department of Environmental Protection, or local health departments may be called to assist in investigating a complaint.

Filing a Complaint

Citizens may file a complaint with FDACS if they believe that a pesticide has been misused. Complaints should be filed as soon as possible following an alleged misuse with the following information:

- Name and contact information of the complainant/victim.
- Name and address of the second party involved in the complaint (farm, company, neighbor, or other individual)



Figure 4. Herbicide runoff from an athletic field. Credits: John Boyd, University of Arkansas



Figure 5. Fish kill from a misapplication of pesticide. Credits: UF/IFAS Pesticide Information Office

- Date and time of the incident.
- A description of the incident, including the name and/or EPA registration number of the pesticide(s) involved.

To file the complaint, contact:

FDACS Bureau of Compliance Monitoring
3125 Conner Boulevard, Bldg. 8 (L-29)
Tallahassee, Florida 32399-1650
(386) 418-5523 (phone)
(386) 418-5527 (fax)

The Complaint Process

Once FDACS receives a complaint, it is screened and assigned to the local inspector. Then basic steps are taken to compile the most accurate and complete information as soon as possible. To achieve this, the inspector follows a step-by-step process:

1. Contact and interview parties involved in the complaint.
2. Determine what pesticide(s) was used, if it was misused.
3. Collect evidence.
4. Submit a final Filings Report to the Compliance Monitoring Case Review Office for evaluation and determine action to be taken, if any.

Summary

Pesticides provide benefits in many facets of daily life, including protecting food production and health, enhancing our recreational areas, maintaining our rights-of-way, and protecting wildlife, aquatic sites, and natural areas. However, misuse does occur and those who are negligent must take responsibility for their actions. Table 1 summarizes referrals issued by FDACS during Fiscal Year 2011 – 2012.

Table 1. Summary of referrals issued by FDACS (Fiscal Year 2011 – 2012).

Referral category description	Total by category
Unregistered products	106
Allegation of pesticide drift	44
Possible use or misuse of pesticide	19
Food or feed chemical residue	18
Allegation of pesticide exposure of a homeowner	16
Allegation of Worker Protection Standard violation	12
Allegation of environmental damage or contamination	11
Non Worker Protection Standard re-inspections	
Allegation of a bird and fish kill	10
Allegation of human exposure	9
Allegation of bee kill	8
Failure to report pesticide production of EPA	7
USDA recordkeeping violation	6
Allegation of fish kill	5
Allegation of improper marketing or distribution of a pesticide(s)	
Misbranded pesticide	
Allegation of animal injury or death	3
Allegation of improper disposal of a pesticide	2
Allegation of occupational pesticide exposure of a worker	
Allegation of groundwater issues	
Distribution of a misbranded pesticide	
Improper license	
Improper package	
Allegation of improper storage of a pesticide	
Allegation of leaking containers	1
Allegation of an adulterated pesticide	
Allegation of making a recommendation not in accordance with label instructions	
Allegation of aerial application violation	
Referred by Agency for Workforce Innovation	
Total	313