

# **Pesticide Investigations and Enforcement**

## **2012 Annual Report to the Legislature**

*As Required by RCW 15.58.420 and RCW 17.21.350*

*March 31, 2013*



**Washington**  
State Department of  
**Agriculture**

**Dan Newhouse, Director**

For more information or additional copies of this report, please contact:

**Washington State Department of Agriculture  
Pesticide Compliance Program  
Cliff Weed, Manager  
P.O. Box 42560  
Olympia, WA 98504-2560  
(360) 902-2036**

This report is available on the WSDA web site at: [www.agr.wa.gov](http://www.agr.wa.gov).

AGR PUB 706-380 (N/3/13)

Inquiries regarding availability of this publication in alternate formats should be directed to the WSDA Receptionist at (360) 902-1976 or Telecommunication Device for the Deaf at (360) 902-1996.

## **Legislative Mandate**

The Washington State Department of Agriculture (WSDA) is required by state law to provide a report each year regarding its pesticide enforcement activity.

RCW 15.58.420 and RCW 17.21.350 states that WSDA is to report annually to the appropriate committees of the House of Representatives and the Senate on the activities of WSDA under Chapter 15.58 RCW, the Washington Pesticide Control Act, and Chapter 17.21 RCW, the Washington Pesticide Application Act. The report is to include: A review of WSDA's pesticide incident investigation and enforcement activities, with the number of incidents investigated and the number and amount of civil penalties assessed.

## **Pesticide Investigations and Enforcement**

WSDA, under authorities granted by Chapter 15.58 RCW, the Washington Pesticide Control Act and Chapter 17.21 RCW, the Washington Pesticide Application Act, protects the environment and the physical and economic health and welfare of the citizens of the state. As provided in these statutes, WSDA regulates the distribution and use of all pesticides in Washington State.

Among other activities, this involves the registration of more than 12,000 pesticide products, the licensing of approximately 22,000 pesticide applicators, dealers, consultants, and structural pest inspectors, and the investigation of complaints of alleged pesticide misuse. WSDA coordinates activities closely with other Washington state agencies, federal agencies and citizens of the state.

Through its pesticide compliance branch, WSDA investigates complaints involving potential violations of the state pesticide regulations and laws. WSDA has staff located strategically across the state to assure prompt response to complaints. The agency also provides information on its website intended to provide pesticide applicators with the information they need to perform their work correctly, and contact information so complainants will know how to report an alleged violation.

## **Complaint Investigations**

In 2012, WSDA investigated 146 complaints. These included complaints related to pesticide use, sales, and distribution; licensing; and building inspections for pests and other wood-destroying organisms.

For each complaint, a pesticide compliance inspector creates an investigation file, collects evidence and produces an investigation report. Table 1 lists the number of complaints investigated in 2012 and the previous two years.

WSDA is required by statute to respond through personal contact to all complaints involving alleged human exposure to pesticides within one working day of receiving the complaint. Thirty human exposure complaints were received in 2012 and all were responded to within one working day.

**Table 1. Total Complaints 2010-2012**

<b>Year</b>	<b>Total Complaints</b>
2010	162
2011	138
2012	*146

\* Of the 146 investigations conducted in 2012 37 have not been completed. This occurs for a number of reasons: The complaint may have been received late in 2012, the investigation may be particularly complex or the case may be pending final compliance action.

Complaints are classified by WSDA according to the type of activity using the following definitions:

- **Agricultural:** Incidents that occur in an agricultural environment such as farming, greenhouses, or Christmas tree farming.
- **Commercial/Industrial:** Incidents involving applications by licensed operators to offices, restaurants, and landscapes.
- **Pest Control Operator (PCO):** Incidents involving a subset of individuals licensed to make applications to control structural pests.
- **Wood Destroying Organism (WDO):** Incidents involving inspections of structures for fungi, insects, and conditions that lead to pest infestations.
- **Residential:** Includes any application of a pesticide in a residential environment by a homeowner, resident, or neighbor.
- **Right-of-way:** Applications made on public land such as roadways, electric lines, and irrigation canal banks.

Table 2 summarizes the number of complaints by type of activity for each of the last three years.

**Table 2. Type of Activity and number of complaints, 2010-2012**

<b>Type of Activity</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Agricultural	33	32	43
Commercial/Industrial	47	30	44
PCO/WDO	22	23	12
Residential (non-commercial)	17	12	24
Right-of Way	23	19	13
Other	20	22	10
Total	162	138	146

Table 3 provides a complete listing of complaints by county for the past three years.

**Table 3. Complaints by County, 2010-2012**

County	2010	2011	2012
Adams	1	4	2
Asotin	0	0	1
Benton	5	2	5
Chelan	4	9	7
Clallam	1	1	1
Clark	4	5	9
Columbia	2	1	1
Cowlitz	2	1	1
Douglas	5	4	4
Ferry	0	1	0
Franklin	6	3	6
Garfield	0	0	0
Grant	11	12	7
Grays Harbor	0	0	2
Island	1	1	2
Jefferson	1	2	0
King	9	13	18
Kitsap	3	1	0
Kittitas	2	0	2
Klickitat	1	0	1
Lewis	1	1	0

County	2010	2011	2012
Lincoln	1	1	2
Mason	1	1	2
Okanogan	2	4	4
Pacific	3	2	1
Pend Oreille	0	0	4
Pierce	13	13	12
San Juan	0	0	0
Skagit	8	2	4
Skamania	0	1	0
Snohomish	11	6	9
Spokane	23	18	9
Stevens	2	3	2
Thurston	11	5	8
Wahkiakum	0	0	0
Walla Walla	4	2	2
Whatcom	8	6	3
Whitman	4	2	4
Yakima	12	11	11
Out of state	0	0	0
<b>Totals</b>	<b>162</b>	<b>138</b>	<b>146</b>

### Pesticide drift

Pesticide drift investigations are those in which a pesticide application has allegedly ‘drifted’ onto adjacent land, creating a possible violation of state laws and rules. Table 4 lists the number of drift complaints received for the past three years.

**Table 4. Drift Data**

Year	2010	2011	2012
Total complaints	162	138	146
Total drift complaints	69	48	49
Total aerial drift complaints	16	16	14
Total ground drift complaints	53	32	35
Total aerial drift complaints involving human health	4	5	5
Total ground drift complaints involving human health	19	21	25

### Enforcement Actions

WSDA can take a range of actions when it has determined a violation occurred. Only the Notice of Intent (NOI) is a **formal enforcement action** under the Administrative Procedures Act

(RCW 34.05). The NOI is a document stating WSDA’s intent to assess civil penalties to the alleged violator and/or to suspend, deny or revoke the alleged violator’s pesticide license.

WSDA may also take **informal actions**.

These include:

- A verbal warning administered by a field investigator to an alleged infractor, which specifies the violation.
- An advisory letter providing specific written advice to an alleged infractor on how to comply with the laws and rules related to pesticides.
- A Notice of Correction (NOC), issued to an infractor when a minor violation of the laws and rules related to pesticides has occurred. The NOC states the specific law and/or rule that was violated, information on how to correct the violation, and a deadline for complying. There is no fine associated with an NOC. WSDA tries to work with individuals to correct violations voluntarily by issuing NOCs. As a result, WSDA issues substantially more NOCs than NOIs.

**Penalties:** Under WSDA’s pesticide violation penalty matrix, the maximum civil penalty WSDA may assign is \$7,500 per violation and/or 90 days license suspension or license denial or revocation. However, the typical penalty for a non-serious, violation is \$200 to \$500 and a license suspension of two to six days. In most investigations, a first-time violation would result in a NOC, and not advance to the civil penalty stage unless a repeat violation was identified. However, for incidents in which the investigation indicated a person was exposed to a pesticide, a first time violation may result in a civil penalty. The typical penalty for a first-time human exposure violation is \$350 to \$550 and a license suspension of five to nine days. Investigations that include multiple violations and/or aggravating circumstances can result in much higher penalties.

Table 5 summarizes the NOI’s and NOC’s issued in the last three years. The numbers for 2012 are unusually low, in part because several investigations, 37, remain unfinished. Some of those are likely to result in Notices of Correction and Notices of Intent. However, given a higher than normal number of unfinished investigations in 2012, WSDA is reviewing its case investigation processes and will be seeking ways to improve the efficiency of the investigations and reduce the length of time cases remains open.

**Table 5 . Enforcement Actions 2010-2012**

	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b><i>Formal Enforcement Action</i></b>			
Notices of Intent (NOI) issued	36	34	1
License Suspension (total days)	212*	69	20
Civil penalties assessed (total amount)	\$77,800**	\$24,975	\$3,600
<b><i>Informal Enforcement Action</i></b>			
Notices of Correction (NOC) issued	83	65	69

\*The number of license suspension days is higher than normal in 2010 due to a 5 year suspension for one individual.

\*\*The total civil penalties were higher in 2010 due to one penalty in the amount of \$25,000.